AGENDA

PUBLIC HEARING:

1. **KENNETH BOYNTON** – Proposed 44-lot residential cluster subdivision served by sanitary sewer and public water at 426 Wetherell Street.
   - Inland Wetlands Permit (2019-036)
   - Subdivision (2019-037)

NEW BUSINESS:

1. **KENNETH BOYNTON** – Proposed 44-lot residential cluster subdivision served by sanitary sewer and public water at 426 Wetherell Street.
   - Inland Wetlands Permit (2019-036)
   - Subdivision (2019-037)
   - Erosion & Sedimentation Control Plan (2019-089)

2. **MANCHESTER EARLY LEARNING CENTER, INC.** – Removal of two existing storage sheds, construction of a new storage/maintenance shed, and construction of a new 6-space parking area at 80 Waddell Road.
   - Special Exception Modification (2019-080)

3. **THE PLAZA AT BURR CORNERS, LLC** – For improvements to McDonald's restaurant, including upgrades to the drive-through, building renovations, and minor site improvements, at 1221 Tolland Turnpike.
   - Special Exception Modification (2019-082)

4. **ADMINISTRATIVE REPORTS**
   - Discussion of Outdoor Lighting
   - Discussion of Tree Regulations

5. **APPROVAL OF MINUTES**
   - July 1, 2019 – Public Hearing/Business Meeting
   - July 15, 2019 – Public Hearing/Business Meeting

6. **RECEIPT OF NEW APPLICATIONS**
TOWN OF MANCHESTER
LEGAL NOTICE

The Planning and Zoning Commission will hold a public hearing on August 12, 2019, at 7:00 P.M. in the Lincoln Center Hearing Room, 494 Main Street, Manchester, Connecticut to hear and consider the following petitions:

KENNETH BOYNTON – Inland Wetlands Permit (2019-036); Subdivision (2019-037) – Proposed 44-lot residential cluster subdivision served by sanitary sewer and public water at 426 Wetherell Street, Residence AA zone.

At this hearing interested persons may be heard and written communications received. A copy of this petition is in the Planning Department, Lincoln Center Building, 494 Main Street, and may be inspected during regular business hours (8:30 a.m. – 4:30 p.m., Monday through Friday).

Planning and Zoning Commission
Eric Prause, Chair
TO: Planning and Zoning Commission / Inland Wetlands Agency
FROM: Matthew R. Bordeaux, Senior Planner (MB) David Laiuppa, Environmental Planner / Wetlands Agent (DL)
DATE: August 7, 2019
RE: Kenneth Boynton – 426 Wetherell Street
Inland Wetlands Permit (2019-036)
Subdivision (2019-037)
Erosion and Sedimentation Control Plan (2019-089)

Introduction

The applicant is proposing a 44-lot cluster subdivision on 30.35 acres at 426 Wetherell Street. The site is located on the south side of Wetherell Street, between the Planned Residence Development (PRD) subdivision on Cougar Drive located to the north and west, and the Residence AA subdivision to the south referred to as Bayberry Heights, accessed from Hillstown Road (see attached Location Map). Temporary cul-de-sacs exist at Wilson Way and Bayberry Road that will be utilized to provide access to the parcel. An Eversource right-of-way abuts the subject property’s entire eastern boundary, running north/south from Wetherell Street and eventually to Bush Hill Road.

The Planning and Zoning Commission approved a zoning district change on December 10, 2018 from Rural Residence zone to Residence AA zone. The proposal will require an inland wetlands permit and subdivision plan approval, as well as certification of an erosion and sedimentation control plan and a special exception approval for a proposed municipal utility building. In accordance with Article III, Section 4 of the Zoning Regulations, the Planning and Zoning Commission, upon receipt of a petition for a cluster subdivision, shall hold a public hearing.

At its July 15, 2019 meeting the Planning and Zoning Commission (acting in its role as the Inland Wetland Agency) made a determination that this proposed project will have significant impacts on regulated wetlands. That determination requires that a public hearing is held on the inland wetlands permit application, which has been scheduled in conjunction with the one required for the cluster subdivision as described above.

Project Description

Cluster Subdivision

The applicant is proposing a 44-lot cluster subdivision in accordance with Art. III, Section 4. A cluster subdivision permits the residential lots in Rural Residence zones and Residence AA
zones to be reduced in dimension and designed to occupy less than the total tract area of the subdivision provided that the maximum building density is not exceeded. The undeveloped portion of the tract shall be designed and dedicated as public open space.

**Open Space**

In accordance with Article III, Section 4.02.01 of the Manchester Zoning Regulations, the Commission has authority to consider the location and nature of the dedicated open space and its suitability for the purposed intended. The applicant is proposing to dedicate approximately 10.51 acres (34.6% of the area of the site) to be left in an undisturbed natural state. The land to be dedicated as open space encompasses the easterly and southerly property boundary of the existing parcel. The open space property along the east property boundary consists of steep, wooded slopes and runs parallel to the existing Eversource-owned utility right-of-way. There are three (3), unrelated wetland areas located in the proposed open space. These wetland areas will be described in greater detail later in this memo. The applicant is also proposing to locate a stormwater detention basin in the open space area.

**Stormwater**

The applicant is proposing to collect stormwater in a series of catch basins located throughout the subdivision. The catch basins will convey stormwater to above ground detention basins. To treat the stormwater prior to discharge, each basin contains a sediment forebay for pre-treatment and a vegetated bottom in accordance with the requirements of the 2004 Connecticut Stormwater Quality Manual. Each sediment forebay has been sized to exceed 10% of the Water Quality Volume of the contributing watershed, and the vegetated bottom of each basin has been sized to exceed 100% of the Water Quality Volume.

**Utilities**

The applicant is proposing to extend the public drinking water supply and sanitary sewer service from their existing terminus at the temporary cul-de-sac on Wilson Way. The proposed subdivision is located at a high point in the Town’s public water supply Low Service Area. The top of the Wilson Way cul-de-sac currently experiences the lowest pressure in the Low Service Area. The proposed subdivision is located uphill from Wilson Way and, as such, any water system extension would mean that the proposed lots will experience marginal to unacceptable pressures. In addition, fire protection cannot be provided to the highest elevations in the subdivision. Any system extension would also impact other areas of the Low Service Area with higher elevations during peak demand conditions.

To improve pressure conditions, the applicant is proposing to construct a booster pump in a station identified as Parcel ‘B’ located between Lots #2 and #3 (see revised Plot Plan Sheet No. 4 of 18 attached). The applicant recently revised the plans to show the pump station on its own dedicated parcel instead of adjacent to the proposed detention basin on Parcel ‘A’ as depicted on the attached Grading Plan Sheet No. 8 of 18. Parcel ‘B’ and the facilities upon it would be dedicated to the Town for future ownership and maintenance. The pump station would serve Lots 5 – 25.
The proposed lots will be served by natural gas extended from Wilson Way. The sanitary sewer will also be extended from Wilson Way and all sewer mains will be gravity-fed.

**Erosion and Sediment Control**

The erosion and sediment control plan for this site consists of the use of soil stockpile areas, sediment basins, and silt fence and/or hay bales down gradient of all disturbed areas. An anti-tracking pad will be installed at the entrance to the site.

The proposed stormwater basins will be initially constructed as temporary sediment basins. Once the site has been stabilized, the basins will be cleaned, planted and seeded per the design plans.

All sediment and erosion control procedures and construction of all stormwater drainage structures shall essentially be in accordance with the “2002 Connecticut Guidelines for Soil Erosion and Sediment Control” by the Connecticut Council on Soil and Water Conservation.

**Project Phasing**

The applicant is proposing to break the project into multiple phases (see Layout Plan Sheet No. 2 of 18 attached). The extension of Wilson Way is the first phase of the project, which will contain 16 lots. Traffic will exit this phase and travel approximately 1,000’ along the existing portion of Wilson Way and Cougar Drive and onto Wetherell Street. Phase II of the project will include 17 lots and the construction of a road along the westerly portion of the site coming off Phase I and extending to Bayberry Road. Traffic will have the option to travel the same route as the Phase I traffic or access the development from Bayberry and Bramblebush Roads to Hillstown Road. The final phase of the project contains 11 lots and will extend Phase I to the existing Bayberry Road cul-de-sac.

**Inland Wetlands**

Within the project limits, wetland scientists, under contract to the applicant, identified four separate wetland systems, none of which had been previously identified or mapped on the site.

Wetland A, which is located in the southwest corner of the site, is a small isolated forested wetland and contains a verified vernal pool. The proposed project does not have any direct impacts to this wetland. There is proposed work, including land grading, within the upland review area of Wetland A. This work will result in direct, permanent impacts to the upland review area. This Wetland and associated Upland Review area are depicted on the attached Sheet No. 8 of 18.

Wetland B, which is located in the southeast corner of the site, is a large forested wetland and extends beyond the limits of the site as a larger system. The proposed project does not have any direct impacts to this wetland or its associated upland review area. This Wetland and associated Upland Review area are depicted on the attached Sheet No. 7 of 18.
Wetland C, which is delineated as two separate systems, divided by a former unpaved roadway, is located in the northeast corner of the site. The area designated as Wetland C/1C is an isolated emergent wetland which is adjacent to an earthen berm along its eastern side. The area designated as Wetland 2C/3C is a larger system which has been classified as an emergent / scrub-shrub wetland and extends to the west beyond the limits of the site as a larger system. There is proposed work, which consists of land grading, within the Wetland C/1C portion of the wetland. This work is a direct impact to the wetland. There is proposed work, including land grading, gravel path construction, and the installation of a pipe within the upland review areas for the Wetland C/1C and Wetland 2C/3C portions of the wetland. This work is a direct and permanent impact to the upland review area. This Wetland and associated Upland Review area are depicted on the attached Sheet No. 6 of 18.

Wetland D, located at the western edge of the site, is an isolated emergent wetland with a hydrological connection, via surface drainage, to the uplands to the west of the project limits. The proposed project has a direct and permanent impact to this wetland. The proposed work, including land grading, gravel access road construction, house construction, installation of underground pipes, and the construction of a basin (referred to as a stormwater detention basin in the Wetland Assessment & Impacts Analysis: Summary of Findings and a stormwater pond in the Water System Hydraulic Calculation report), will result in the total elimination of this wetland. There will be significant direct and permanent impacts to the upland review area, most notably land grading, roadway construction, the construction of several houses and associated driveways, the construction of a public water supply pump house, utility installation, and the construction of a basin (the same as mentioned above). This Wetland and associated Upland Review area are depicted on the attached Sheet No. 8 of 18.

As defined in the Regulations, a "Regulated Activity means any operation within or use of a wetland or watercourse or within 100 feet of a wetland or watercourse, involving any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater."

According to the application presented to this Commission, the following points are pertinent to this discussion:

1. There will be a direct and permanent impact to roughly 22,400 square feet (~0.51 acres) of wetlands as a result of this project.

2. There will be a direct and temporary impact to roughly 1,100 square feet (~0.025 acres) of wetlands as a result of this project.

3. There will be direct and permanent as well as direct and temporary impacts to the upland review areas of three of the four delineated wetlands. These areas of impact have not yet been provided by the applicant.

4. There is the potential for both permanent and temporary indirect impacts to wetlands and upland review areas as a result of this project. These indirect impacts are anticipated to
be associated with erosion and sedimentation resulting from construction activities, disturbance of vegetation in the adjacent uplands, the alteration of hydrology and drainage patterns, and discharge of degraded surface water or groundwater.

The proposed development will result in the alteration of the landscape from an open field with wooded fringes on a drumloidal feature (hilly area comprised of compact soils with steep slopes) to a fully developed residential neighborhood with designated open space on the east and south sides. The proposed Open Space will connect two Conservation Easements to the south of the project site (as seen on the attached Sheet No. 2 of 18).

Because the Planning and Zoning Commission has determined that this application contains proposed elements that will have a significant impact to wetland resources, there are certain elements that are required to be included in the application as it is presented at the Public Hearing. These requirements are, in some cases, more detailed levels of information than those required for applications that are not presented at a public hearing.

As outlined in Section 4.4 of the Regulations, it is a requirement that “if the Agency finds the activity applied for involves or may involve a significant impact or major effect on the wetland or watercourse, the applicant shall submit additional information including, but not limited to:

(a) Soil Sample Data if the parcel lies within or partly within an area believed to contain poorly drained, alluvial and/or floodplain soils. The data shall show precisely where each specific soil type is found. Soil types identified shall be consistent with the categories established by the National Cooperative Soils survey of the U.S. Natural Resources Conservation Service.

(b) Description of the ecological communities and functions and values of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions.

(c) Description of any alternatives considered which would cause less or no environmental impact to wetlands or watercourses, and a description of how the proposed activity and each of the alternate scenarios would change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application. Applicant shall also provide a description of why each alternative considered was deemed neither feasible nor prudent.

(d) Analysis of chemical or physical characteristics of any fill material.”

_Staff Review_

Town staff review of this project began with the application submittal in April. Concerns regarding the provision of public water to the site required testing in the field and engineering analysis taking several weeks to schedule and perform. The applicant has exhausted the extensions of time allowed by state statute before a public hearing must commence. As there currently remain several outstanding items under review by Town staff, we recommend that the
Commission open the public hearings required for the Inland Wetlands Permit and the Cluster Subdivision proposal in order to begin the review of this project and allow the public an opportunity to provide input.

As the project remains under review, however, we ask that the Commission leave the public hearings open so that staff review and input may be provided within the period of time that the public hearing remains open, just in case that review results in substantive changes to the plans.
Location Map

Town of Manchester, CT
DISCLAIMER: This map is compiled from other maps, deeds, dimensions and other sources of information. Not to be construed as accurate surveys and subject to final changes as a more accurate survey may disclose.
NOTES: Original planimetric and topographic data were compiled by stereophotogrammetric methods from photography dated April 1999 in accordance with ASPR accuracy standards for 1 inch = 40 ft large scale Class I mapping. The updating of the GIS data is performed by the GIS/Maps & Records Unit on a continual basis utilizing the best and most appropriate sources available.

1 inch = 500 feet

Author:

Date: 12/5/2018
TO: Planning and Zoning Commission
FROM: Matthew R. Bordeaux, Senior Planner
DATE: August 7, 2019
RE: Manchester Early Learning Center, Inc. – 80 Waddell Road
Special Exception Modification (2019-080)

Introduction
The applicant is proposing some improvements to the Town-owned facility at 80 Waddell Road in accordance with Article II, Section 5.02.02. The 1.73-acre site is operated by the Manchester Early Learning Center, a non-profit organization offering pre-school services since 1976. The site is located in two zoning districts. The front portion of the site on Waddell Road is in the Residence B zone and the rear is in the Residence A zone. A school is a special exception use in both zones.

Project Description
The applicant is proposing to remove two existing storage sheds located along the southern property line (highlighted in green on attached Site Plan) and replace them with a single, 16’ x 20’ (320 sq. ft.) storage shed in the same general location. Two (2) new bus parking spaces are proposed to be constructed in the far northwest corner of the property as well.

Additionally, a new parking area including six (6) parking spaces is proposed south of the existing building fronting on Waddell Road. The proposed driveway will be located at the southerly limit of the site frontage on Waddell Road, maximizing the distance from the Dudley Street intersection as well as the existing site driveway located at the northerly limit of the site (highlighted in pink on the attached Site Plan).

The new parking area will have a 24’ driveway at the street line and the proposed parking spaces will face in toward the site rather than in the direction of adjacent neighbors. The parking area will include a catch basin to collect stormwater runoff that will be directed into a perforated pipe surrounded by gravel located under the parking area to provide infiltration.

Special Exception Modification
The Commission should consider the provisions of Article IV, Section 20 in review of this application.
Staff Review

Town staff has reviewed the plans and documents submitted with this application and provided the applicant with comments. The applicant submitted revised plans that are currently under review. A report on the status of that review will be provided at the meeting.

MRB
Attach.
DISCLAIMER: This map is compiled from other maps, deeds, dimensions and other sources of information. Not to be construed as accurate surveys and subject to final changes as a more accurate survey may disclose. 

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Date: 8/7/2019
Author:
TO: Planning and Zoning Commission
FROM: Matthew R. Bordeaux, Senior Planner
DATE: August 6, 2019
RE: The Plaza at Burr Corners, LLC – 1221 Tolland Turnpike
      Special Exception Modification (2019-082)

Introduction

The applicant is requesting approval of a Special Exception Modification in accordance with
Article II, Section 24.02.01 (d) for improvements to the existing McDonald’s restaurant at 1221
Tolland Turnpike. The proposed improvements include upgrades to the drive-through, building
renovations and minor site improvements. The McDonald’s restaurant is located in the southwest
corner of the Plaza at Burr Corners, adjacent to the signalized intersection on Tolland Turnpike.
The restaurant is surrounded by the interstate highway corridor on the west, Firestone Complete
Auto Care on the north and Dunkin Donuts on the east.

Project Description

The applicant is proposing to redevelop the route customer vehicles will navigate to access the
drive-through window. Under current conditions, a guest would enter the site, head south then
take an exaggerated right-hand U-turn to access the drive-through window on the south side of
the building as depicted on the Demolition Plan Sheet No. C-3. The proposal would reroute
guests entering the site straight along the north side of the building, taking left turns around the
rear, into and through a dedicated lane for access to the window in a more typical route for a
drive-through approach at McDonald’s and other restaurants with drive-through windows.

Additional site improvements include the construction of parking spaces dedicated for mobile
ordering on the south side of the building and spaces to the rear, or west, side of the site that will
be restriped.

McDonald’s is also proposing to renovate the building façade to look like the more modern
brand that other area McDonald’s restaurants have done. The new look will include more gray,
charcoal and aluminum colors and elements similar to the recently renovated McDonald’s
restaurant on West Center Street.

A revised landscaping plan (see Sheet No. C-6 attached) has also been proposed that includes a
few new trees, low growing junipers, flowers and grasses around the site.
Special Exception Modification

The Commission should consider the provisions of Article IV, Section 20 in review of this application.

Staff Review

Town staff has reviewed the plans and documents submitted with this application and provided the applicant with comments. The applicant submitted revised plans that are currently under review. A report on the status of that review will be provided at the meeting.

MRB
R:\Planning\PZC\2019\August 12\Packet\McDonalds 2019-082.docx
Attach.
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1 inch = 333 feet
Date: 8/7/2019
Author:
At the Commission’s July 15, 2019 regular meeting, some questions about outdoor lighting came up as the Commission considered a special exception permit application. As a result, the Commission asked staff to prepare some information regarding the way the Manchester Zoning Regulations (Regulations) address outdoor lighting. The following information is meant to open a preliminary discussion that will help the Commission consider whether additional research is necessary to determine whether the Regulations are adequate or could be improved.

**Outdoor Lighting**

The appropriate application of outdoor lighting impacts the well-being, health and safety of the community. Regulation of outdoor lighting can reduce potential adverse impacts on surrounding properties; preserve the dark, providing an increased number of stars visible at night; and reduce energy consumption and greenhouse gas emissions.

**Dark-Sky Movement**

The dark-sky movement is a campaign to reduce light pollution. The objectives of the campaign are to set limits on brightness of individual light fixtures and require outdoor lighting be turned off or reduced when businesses or uses are not open or operating. The International Dark-Sky Association (IDA), a non-profit started in 1988, has implemented several simple guidelines to responsible outdoor lighting along with some practical considerations.

- In regard to safety, one needs only the right amount of light, in the right place, at the right time. More light often means wasted light and energy.
- Use the lowest wattage of lamp that is feasible. The maximum wattage for most commercial applications should be 250 watts of high intensity discharge lighting, but less is usually sufficient.
- Incorporate curfews (i.e., turn lights off automatically after a certain hour when businesses close or traffic is minimal).
Manchester’s Regulation of Outdoor Lighting

The Regulations do not provide a great deal of attention to mitigating the impacts of outdoor lighting. The language and requirements are very limited except for regulations applicable to the Form-Based Zone.

Generally, as provided in the General Requirements for Residential Zones (Article II, Section 1.00.02 (d) and the General Requirements for Business Zones (Article II, Section 9.08), the language addressing Yard and Building Lighting is the same and reads as follows:

“All flood lighting and all other types of lighting which are intended to illuminate the building or yards shall be arranged so that the lights will not shine into the eyes of any person external to the premises, or cause a nuisance from excessive glare.”

This language exists without associated definitions or standards, yet has not become an unenforceable burden as might be expected. The regulation seems adequate to prevent or reduce potential nuisance to neighbors but does not go far enough to address the environmental and sustainability goals of the dark-skies effort.

As far as permit application requirements, the Regulations state that, in accordance with Article I, Section 4.04, “Detailed Plans shall show the following information, at a minimum: (25) Location and description of proposed signs and outdoor lighting.” Specific requirements beyond that are not provided and, other than preventing a nuisance, there are no other standards established.

As mentioned above, regulation of the Form-Based Zone includes a greater level of oversight regarding outdoor lighting. Article II, Section 26.08.06 establishes several clear standards for the installation of outdoor lighting, including the application of streetscape versus other site lighting, fixture heights, light source and fixture type, limitations on periods of activity and more. A copy of this section of the Form-Based Zone is attached for your review.
Article II, Section 26: Form Based Zone

26.08.06: Lighting Standards

Outdoor site lighting shall primarily be used to provide safety, while secondarily accenting key architectural elements and to emphasize landscape features. Light fixtures must be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed to illuminate any portion of a site must meet the following requirements:

A. General Standard - Property owners shall use the fewest fixtures possible to light the specific project area. Property owners shall avoid fixtures that allow light to spill sideways or into the sky.

B. Site Lighting - Lighting shall complement a building’s architecture through shadowing, highlighting, and flooding. Appropriate lumens or foot-candles should be evaluated to provide these effects without overwhelming the building or site. Light fixtures should be compatible to the style of the building and may include: attached or detached; soffit; up light or down light; and tree lighting.

C. Streetscape Lighting Fixture - Light fixtures shall be selected by the Town of Manchester and intended to complement the general streetscapes, buildings, and development patterns of the FBZ.

D. Streetscape Lighting Placement – The placement of streetscape lighting fixtures shall be in a consistent pattern to provide sufficient light levels within the public streetscape area and private streetyard. Lighting placement within the streetyard shall be designed as an extension of the public streetscape and as a complementary element of landscaping and building design.

E. Prohibited Light Sources - The following light fixtures and sources may not be used where the direct light emitted is visible from adjacent areas:

1) Low-pressure sodium and mercury vapor light sources;
2) Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources; and
3) Searchlights and other high-intensity narrow-beam fixtures.

F. Luminaire - The light source shall be concealed and must not be visible from any street right-of-way, not including an alley, or adjacent properties. In order to direct light downward and minimize the amount of light spill into the night sky and onto adjacent properties, all lighting fixtures must be full cutoff fixtures.

G. Fixture Height - Lighting fixtures shall not exceed 30 feet in height above parking areas. Lighting fixtures may not be less than nine (9) feet or more than 15 feet in height above the sidewalk in pedestrian areas.
H. **Light Source (Lamp)** - Only incandescent, fluorescent, metal halide, or LED may be used.

I. **Mounting** - Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

J. **Limit Lighting to Periods of Activity** - The use of sensor technologies, timers or other means to activate lighting during times when it will be needed is encouraged to conserve energy, provide safety and promote compatibility.

K. **Security Lighting**

1) Building-mounted security light fixtures such as wall packs may not project above the fascia or roof line of the building and must be shielded.

2) Security fixtures, including but not limited to floodlights and wall packs, may not face residential uses on adjacent properties.

3) Security fixtures may not be substituted for parking area or walkway lighting and are restricted to loading, storage, service and similar locations.

L. **Accent Lighting** - Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture is located, aimed or shielded to minimize light spill into the night sky.

M. **Entrances and Exists** - All entrances and exists to buildings used for nonresidential or mixed use purposes and open to the general public, and all entrances in multifamily residential buildings must be adequately lighted to ensure the safety of persons and the security of the building.

N. **Commercial Parking Area Lighting** - All commercial parking areas must provide lighting for both pedestrian areas and parking areas during nighttime hours of operation.

O. **Excessive Illumination**

1) Lighting that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited.

2) Lighting unnecessarily illuminates if it exceeds the requirements of this regulation.

3) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.
TO: Planning and Zoning Commission / Inland Wetlands Agency
FROM: David Laiuppa, Environmental Planner / Wetlands Agent
DATE: August 12, 2019
RE: Tree Protection and Replacement Regulations

In response to a recent inquiry from the Planning and Zoning Commission (PZC), the Planning and Economic Development Department Staff has investigated Town and State regulations and guidelines regarding the identification, protection, removal, and replacement of trees for projects that submit an application for PZC approval. These guidelines and regulations do not affect normal activities on private property but activities that require approval (private or public). The following information is meant to open a preliminary discussion that will help the Commission consider whether additional research is necessary to determine whether the Regulations are adequate or could be improved.

Authorities That Are in Place

From the Town of Manchester Code of Ordinances Chapter 298: Trees

Within the Town of Manchester the Tree Warden has purview over all trees and shrubs within the public right-of-way and those trees on private property that may be considered to be a public nuisance. The exception to the Tree Warden’s oversight includes those trees that are under the jurisdiction of the State of Connecticut (i.e. within state owned lands or rights-of-way).

The Conservation Commission (under its charge as the Tree Advisory Board) has the power to make a final ruling regarding any appeals to the decision of the Tree Warden to remove, treat, or trim trees or shrubs.

The General Manager may, by decree, suspend the requirements of the Town Tree Ordinance when it is deemed necessary to expedite the removal of damaged or destroyed trees or shrubs in the interest of public safety, health, and general welfare.

Restrictions That Are in Place

From the Town of Manchester Code of Ordinances Chapter 298: Trees

No person, company, utility, state, or federal agency shall, in any public area or public way, except as authorized by the Conservation Commission in areas under its jurisdiction, prune, remove, deface, cut, paint, mark, injure, mutilate, kill, or destroy any tree or shrub. This restriction includes the willful allowance of any animal under his/her control to cause the same such affects, or to permit fire or toxic chemicals to adversely affect any such trees or shrubs.
During construction operations, a contractor shall erect suitable protective barriers around public trees which may be injured as a result of his/her activities.

No person shall fasten any sign, playbill, picture, notice, advertisement, rope, wire, climbing spurs, or other materials to, around, or through any public trees or shrubs, except in an emergency, such as storms or accidents.

**Regulations That Are in Place**

From the Town of Manchester Subdivision Regulations *Section 4.10: Preservation of Natural Features*

Under the Subdivision Regulations there is language that includes the identification, preservation, and protection, to the extent feasible and prudent, of those trees identified by their size as “specimen trees” as well as stands of trees defined by homogeneity of species. These regulations further state that the felling of trees shall be held to a minimum. It is stated in the regulations that plans must show all trees that are over a certain size within the Town right-of-way abutting the subdivision and that the removal of trees in this area must be approved by the Town Tree Warden.

The Subdivision Regulations require that street trees shall be provided at a rate of one for every 50 feet of street frontage and that the developer shall leave not less than two naturally growing trees having a 3 inch caliper in the front yard of each lot or shall plant one tree for every 50 feet of lot frontage or fraction thereof. The regulations provide a “Suggested Street Tree List” which must be incorporated into the planting plan. It is also required, by regulation, that the street tree planting shall be located a minimum of 10 feet from the street line to a maximum of 30 feet from the street line.

From the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control *Section 5.1: Tree Protection*

Within the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control Section 5.1 (which is required to be followed in all permitted projects) there is extensive language about proper tree protection prior to and during construction activity.

From the Town of Manchester Wetlands Regulations *Section 3.5: Operations and Uses in Wetlands*

The Town Wetlands Regulations prohibit, among other activities, the clear cutting or clearing of a wetland or watercourse or upland review area without a permit.

**Penalties That Are in Place**

From the Town of Manchester Code of Ordinances *Chapter 298: Trees*

Any person who violates any provision of the Tree Ordinance or who fails to comply with any notice issued pursuant to the provisions of this article shall be subject to a fine not to exceed $100 for each separate offense; each day during which any violation of this article shall occur or continue shall be a separate offense.

From the Town of Manchester Wetlands Regulations *Section 7.6: Enforcement*
Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be subject to the penalties provided in the Inland Wetlands and Watercourses Act as amended and to such other penalties as the law may provide.

**What is Missing or Could Be Added**

The current zoning related regulations regarding trees are only for subdivisions. If it is determined that there should be regulations in place for any proposed activity other than subdivisions, then that language needs to be added. The consideration of the extension of these regulations should consider all zones and special exceptions.

Within the subdivision regulations there are some ill-defined references to tree sizes. These should be better defined.

Within the “Suggested Street Tree List” table provided in the subdivision regulations there are several non-native and invasive trees identified as suggested trees for planting. Any invasive species should be eliminated from the list and it should be determined if the list should include only native species or if some non-native species are acceptable.

The list of suggested trees is heavily oriented towards streetscape enhancement. It might be worth revisiting the criteria of the list with things other than street appeal in mind (i.e. matching nearby vegetation, carbon sequestration, wildlife enhancement, providing shade, increasing biodiversity, longevity, growth rate, maximum tree growth dimensions, safety, etc.).

The subdivision regulations state that specimen trees and stands of trees shall be preserved and protected to the extent feasible and prudent but there is no discussion of replacement of these protected trees if they cannot be preserved and/or protected.

For permit applications which include the protection of existing trees within a non-regulated area there is currently no enforceable or repercussive mitigation language that can be used in situations where, by damaging or removing the tree(s), the permit has been violated.

For permit applications which include the planting of new trees there is currently no enforceable language or penalties that can be used in situations where the trees have not been planted. It is possible, for applications requiring a sign-off (i.e. Certificate of Occupancy), that the sign-off will not be granted until all permit conditions, including plantings, have been met.

The Tree Ordinance, which is not under the purview of the Planning and Zoning Commission, only relates to those interests and impacts caused by or to the trees within or affecting public lands and rights-of-way. The Tree Ordinance has a public safety focused perspective and does not have good supportive language for the protection or preservation of the trees or the positive aspects of those trees. Additionally, there are no restrictions or regulations regarding impacts to trees that are not on or affecting lands of public interest.
Appendix – Supporting Documentation

The following sections provide detailed textual support and references to the data source of the above summarized information.

Subdivision Regulations

Tree Protection (from Manchester Subdivision Regulations Section 4.10: Preservation of Natural Features)

Existing natural, man-made, or scenic resources shall be preserved and protected to the extent that is feasible and prudent. Such resources include, but are not limited to: stone walls, steep slopes with a gradient greater than 25%, ledge outcroppings, specimen trees defined as trees with 30” or larger measured at 4’6” from the ground, stands of trees defined as areas with primarily homogenous tree species, areas identified on the State and Federal Listed Species and Significant Natural Communities Map for Manchester, CT as amended (Natural Diversity Database Map), watercourses, ponds, wetlands, ridge lines, and any other significant geological features.

The felling of trees shall be held to a minimum. Plans must show all trees 2” caliper or greater, measured at 4’6” from the ground within any existing Town right-of-way abutting the subdivision. Any tree removed in this area must be approved by the Town tree warden.

Street trees shall be provided at a rate of one for every 50 feet of street frontage. The developer shall leave not less than two naturally growing trees having 3 inch caliper in the front yard of each lot or shall plant one tree for every 50 feet of lot frontage or fraction thereof, but no less than two trees from the Suggested Street Tree List with 3 inch caliper in the front yard of each lot. These shall be located a minimum of 10 feet from the street line to a maximum of 30 feet from the street line. Straight rows and the use of only one variety are to be avoided, the intent being to create a natural mixture of appropriate species.

Manchester Inland Wetlands Regulations

Regulated Activities in Wetlands (from Manchester Inland Wetlands and Watercourses Regulations Section 3.5: Operations and Uses in Wetlands)

All activities in wetlands or watercourses or the 100 foot upland review area involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse or upland review area not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 4 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 6 of these regulations.

From the Town of Manchester Wetlands Regulations Section 7.6: Enforcement

Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be subject to the penalties provided in the Inland Wetlands and Watercourses Act as amended and to such other penalties as the law may provide.

Manchester Engineering Guidelines
Tree Protection (from Manchester Engineering General Conditions 18.3: Trees and Shrubs)

The Contractor will take precautionary measures to protect all public and private trees or shrubs remaining within or adjacent to the Project area. This also includes protection of root systems that may become damaged due to the excavation activities near or adjacent to vegetation designated to remain.

The Contractor shall be fully responsible for compensation, repair, or replacement of any damaged tree or shrub because of neglect by the Contractor or any of his/her assigned Subcontractors.

Manchester Tree Ordinance

Purpose of Article (from Manchester Code Section 298-5: Purpose)

It is the purpose of this article to promote and protect the public health, safety and general welfare by providing for regulation of the planting, maintenance and removal of trees and shrubs within the Town of Manchester. It is the intent of the Board of Directors that the provisions of this article be construed so as to promote the planting, maintenance, restoration and survival of desirable trees and shrubs within the Town of Manchester. This article provides full power and authority over all trees located within streets, rights-of-way, parks and public spaces of the Town and trees located on private property that constitute a hazard or threat as hereinafter defined.

Definition (from Manchester Code Section 298-6: Definitions)

Shrub:

Woody plants, branched from the base, generally less than 15 feet tall when mature.

Town Property:

Any and all property owned by the Town of Manchester and any public right-of-way maintained by the Town of Manchester, including, for the purposes of this article, such limbs, roots or parts of trees and shrubs as extend or overhang the limits of any municipal road or grounds.

Tree:

A woody plant, usually with one main trunk, reaching a height of at least 15 feet when mature.

Tree Warden (from Manchester Code Section 298-7: Tree Warden)

The General Manager shall appoint a Tree Warden, who shall have all powers, duties and authority as set forth herein as well as in the Connecticut Public Shade Trees Statutes, particularly Connecticut General Statutes Sections 23-58, 23-59, 23-60 and 23-65, as the same be amended, and this article. The Tree Warden shall have a working knowledge of arboricultural practices through formal education and/or directly related experience. The Tree Warden shall have full power and authority over all trees and shrubs located within the public areas and, to the extent provided herein, on private property.

Tree Advisory Board (from Manchester Code Section 298-8: Tree Advisory Board)
The Town’s Conservation Commission shall function as the Tree Advisory Board. The duty of the Tree Advisory Board is to ensure that the intent and provisions of this article are carried out to the fullest extent possible by developing and maintaining a working relationship with the Tree Warden.

Utility Work (from Manchester Code Section 298-9: Public Utility Work)

Public utility work on either public or private property shall be limited to the actual necessities of the service of the company or agency. Notwithstanding the obligations of public utility companies, pursuant to State Statutes and the State Vegetation Management Task Force Final Report dated August 28, 2012, the plans of any public utility company shall be reviewed by the Tree Warden prior to being undertaken…

Tree Protection (from Manchester Code Section 298-10: Tree Protection)

A. Public nuisance.
   1. Any tree or shrub or part thereof growing upon private or public property which is interfering with the use of any public area, infected with infectious plant disease or endangering the life, health and safety of persons or property is declared a public nuisance.
   2. If the Tree Warden shall determine, with a reasonable certainty, that any nuisance tree or shrub, as herein described, or any part thereof exists in or upon any public area or public way, he/she shall cause it to be treated, trimmed, removed or otherwise abated in such manner as to destroy or prevent the spread of the nuisance.
   3. If the Tree Warden shall determine, with reasonable certainty, that any nuisance tree or shrub, as herein described, exists in or upon any private premises, he/she shall, in writing, notify the owner or tenant having charge of such premises. Within 30 days after issuance of said notice, said person shall cause the treatment, trimming or removal and destruction of said nuisance tree or shrub as directed in the written notice. No damage shall be awarded the owner for the destruction of trees or shrubs destroyed pursuant to this article.
   4. In the event the owner or tenant having charge of such premises shall refuse or neglect to comply with the terms of the written notice within 30 days after receiving it, the Tree Warden, upon approval of the General Manager, shall cause the removal, treatment or trimming of said nuisance tree or shrub. The decision for such removal, treatment or trimming shall be deemed a final decision subject to appeal pursuant to Tree Advisory Board. The expense thereof shall be charged to the owner of said premises on which said tree or shrub is located and, with respect to the cost of removing that portion interfering with any public area or public way, shall become a lien on the property upon recordation of notice thereof on the Town land records.
B. Emergency tree and shrub removal. When it is necessary to expedite the removal of damaged or destroyed trees or shrubs in the interest of public safety, health and general welfare, the General Manager may, by decree, suspend the requirements of this article.
C. Damage to trees and shrubs. No person, company, utility, state or federal agency shall, in any public area or public way of the Town of Manchester, except as authorized by the Conservation Commission in areas under its jurisdiction, including managed municipal forested areas, prune, remove, deface, cut, paint, mark, injure, mutilate, kill or destroy any tree or shrub or permit any animal under his/her or its control to do so, permit any fire to injure any portion of any tree or
permit any toxic chemical to seep, drain or be emptied on or about any tree. During construction operations, the contractor shall erect suitable protective barriers around public trees which may be injured as a result of his/her activities.

D. Fastening materials to trees and shrubs. No person shall fasten any sign, playbill, picture, notice, advertisement, rope, wire, climbing spurs or other materials to, around or through any public trees or shrubs, except in an emergency, such as storms or accidents.

**Connecticut General Statutes**

**Tree Warden (from Connecticut General Statutes Section 23-59: Powers and duties of tree wardens)**

The town or borough tree warden shall have the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of his town or borough, except those along state highways under the control of the Commissioner of Transportation and except those in public parks or grounds which are under the jurisdiction of park commissioners, and of these the tree warden shall take the care and control if so requested in writing by the park commissioners. Such care and control shall extend to such limbs, roots or parts of trees and shrubs as extend or overhang the limits of any such public road or grounds. The tree warden shall expend all funds appropriated for the setting out, care and maintenance of such trees and shrubs. The tree warden shall enforce all provisions of law for the preservation of such trees and shrubs and of roadside beauty… Whenever, in the opinion of the tree warden, the public safety demands the removal or pruning of any tree or shrub under the tree warden's control, the tree warden may cause such tree, shrub or group of shrubs to be removed or pruned at the expense of the town or borough and the selectmen or borough warden shall order paid to the person performing such work such reasonable compensation therefor as may be determined and approved in writing by the tree warden. Unless the condition of such tree, shrub or group of shrubs constitutes an immediate public hazard, the tree warden shall, at least ten days before such removal or pruning, post on each tree or shrub and may post on each group of shrubs a suitable notice stating the tree warden's intention to remove or prune such tree, shrub or group of shrubs… The tree warden may, with the approval of the selectmen or borough warden, remove any trees or other plants within the limits of public highways or grounds under the tree warden's jurisdiction that are particularly obnoxious as hosts of insect or fungus pests.

**Removal of Public Trees (from CGS Sec. 23-60: Appropriations. Public trees; removal)**

Each town, city or borough may appropriate annually a suitable sum to be expended by the town tree warden, borough tree warden, city forester or other similar officer, in the planting, trimming, spraying, care and preservation of shrubs or ornamental or shade trees within the limits of any public highway or grounds under his control and, at the discretion of the tree warden or other similar officer and with the written consent of the owner thereof, upon land adjoining such highway or grounds, if not more than ten feet therefrom, for the purpose of shading or ornamenting such highway or grounds. All shrubs and trees planted under the provisions of this section shall be deemed public shrubs and trees and shall be under the care and control of the tree warden, city forester or other similar officer and may be removed only upon a written permit from him.

**Connecticut Department of Energy and Environmental Protection 2002 Guidelines for Soil Erosion and Sediment Control**
The Tree Protection measure is used on sites where woody vegetation is intended to be kept as a site amenity. Established trees and shrubs are already adapted to their growing environment and have a root system that assists in keeping soils stable. By controlling construction equipment access and protecting as much of the root zone as possible existing vegetation can sometimes be retained. It can be less expensive to protect and maintain existing vegetation than to import new vegetation which must recover from the transplanting process.

The protection and preservation of existing trees is important. It takes 20 to 30 years for newly planted trees to provide the benefits of mature trees. Several factors weigh on the decision to retain specific trees or groups of trees.

Longevity: Long-lived, slow growing tree species, such as oak, hickory, beech, and some maples, should be given greater consideration for protection, particularly the larger specimens of these species. Beech trees do poorly in construction sites and may be difficult to save if their root systems are disturbed. Fast growing, brittle trees, such as birch, cherry, and poplar, are of limited long term value. Naturally seeded young trees of appropriate species should be given preference especially when older trees on the site are of declining health. These vigorous young trees will typically grow faster than the equivalent nursery grown tree planted after development. Retaining groups of these trees provides the additional benefit of avoided land disturbance, and making it less subject to erosion.

When an individual tree is to be retained it is described by its size (normally the trunk diameter in inches at 4.5 feet above ground level, known as diameter at breast height or DBH), and by its species. Groups of trees or forested areas to be retained are described by their average tree size, including average height, species distribution and density.

Aesthetic values: Trees that are well positioned in the landscape, well formed, unusually large, rare, uncommon, or unusually shaped can enhance the aesthetics of any site, and are good candidates for protection and preservation.

Comfort: Trees relieve the heat of summer and buffer strong winds throughout the year. Deciduous trees drop their leaves in winter, allowing the sun to warm buildings and soil. Evergreens are more effective wind buffers.

Wildlife: Where appropriate, consideration should be given to retaining trees that provide food, cover, and nesting sites for wildlife.

Stresses of Construction

Construction activities expose trees to a variety of stresses or conditions which may injure or cause a tree to decline in health and die within two to five years:

Above Ground Impacts: Construction related conditions exerted on the tree above the ground can cause significant damage: …..
Below Ground Impacts: In natural growing conditions, tree roots extend out from the trunk a distance of from one to two times the height of the tree. Commonly the root zone extends well beyond the average extent of the branches of the tree. About 90% of the working roots, those that take in essential water, air and nutrients, are usually located within the top 12 inches of soil. Construction related activities within a tree’s root zone can cause significant damage…..

Tree Protection Zone and Critical Root Zone

The Tree Protection Zone (TPZ) is defined as a circular area surrounding a tree or group of trees with a diameter twenty times the DBH (diameter of the trunk of the tree measured at 4.5 feet above the ground). Where groups of trees or forested areas require delineation of the TPZ, trees within 20 feet of the edge of the group or forest that have a larger DBH than the outermost trees should be noted to properly establish the TPZ. The TPZ encompasses and creates a buffer to the critical root zone.

The Critical Root Zone (CRZ) is defined as a cylindrical area, with a diameter ten times the DBH, including the soil within this area to a depth of two to three feet. Where tree roots are severely crowded by sidewalks, paved surfaces, or buildings, and restricted by linear strips between sidewalks and roads, the CRZ should be extended to encompass the Tree Protection Zone where there are roots present. All TPZs should be delineated on the grading drawings.

When a significant portion of the TPZ or any portion of the CRZ must be impacted, obtain guidance from an arborist licensed to practice in Connecticut. Disturbance within the CRZ can seriously threaten tree survival. The arborist should provide specific guidance on whether to keep or remove the tree, including measures to maintain tree health and safety. These measures may include clean cutting of roots exposed by excavation, maintaining grades and mulch, ensuring proper aeration and drainage, construction of tree wells and tree walls, pruning, mechanical protection of the tree trunk and the possibility of tunneling under the CRZ.

When grades must be changed or trenching is to occur either within the tree protection zone or the critical root zone, the undisturbed portion of the critical root zone must be protected by a fence.

Tree Protection Plans

When the decision has been made to require tree protection, then the location and size of the individual trees or groups of trees to be retained should be identified on the E&S plan. Each individual tree to be retained should be described by its size (DBH) and by its species. Groups of trees or forested areas to be retained should be described by their average tree size, height and species.
ROLL CALL:

Members Present: Eric Prause, Chair
Patrick Kennedy, Vice Chair
Michael Stebe, Secretary
Timothy Bergin

Alternate Member Sitting: Bonnie Potocki

Alternate: Teresa Ike

Absent: Jessica Scorso
Julian Stoppelman

Also Present: Gary Anderson, Director of Planning
Matthew Bordeaux, Senior Planner
David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

REVISED AGENDA

MOTION: Mr. Kennedy moved to adopt the revised agenda, removing the application for 80 Utopia Road. Mr. Stebe seconded the motion and all members voted in favor.

HAIRAM VENTURES, LLC – Request a special exception per Art. II, Sec. 24.02.01(h) for automobile sales and service at 119 Spencer Street. – Special Exception (2019-050)

Attorney Stephen Penny, Manchester, CT, introduced himself and reported that he is representing the applicant. Attorney Penny detailed the property, which is zoned General Business, and its dimensions. He noted that public water and sewer serve the site, and there are no wetlands or watercourses. Attorney Penny explained that the applicant has the subject property under contract for purchase and all pertinent paperwork is in the Planning Department. Spencer Street is addressed at length on Page 29 of the local Plan of Conservation and Development, according to Attorney Penny, and he explained the details of the plan. The business would operate from 9:00 A.M. to 6:00 P.M. Monday through Friday and from 9:00 A.M. to 4:00 P.M. on Saturday; it would be closed on Sunday. A DMV Certificate of Location Approval was granted by the Zoning Board of Appeals on May 29, 2019, Attorney Penny stated.
There will be spaces for 71 sales vehicles, 15 repair vehicles, 8 customer vehicles and 5 employee vehicles.

Attorney Penny reported that Art. II, Sec. 24.02.01(h) identifies new and/or used automobile sales and automobile repair as special exception uses in the General Business zone. He noted that both Art. II, Sec. 24.02.01(h) and Art. IV, Section 5 of the regulations, which deals with location approval for auto-related uses, assign jurisdiction over the applicant’s intended used auto sales and repair use to the Planning and Zoning Commission. Attorney Penny detailed the factors which the Planning and Zoning Commission must consider and reported that all the requirements have been met.

Mr. Andrew Bushnell, Licensed Land Surveyor and Civil Engineer with Bushnell Associates, introduced himself. The site plan developed was explained in detail, i.e., the parking area, landscaping, lighting, traffic flow, signage, and storm water flow. Mr. Bushnell reported that they had received a comment from the Zoning Enforcement Officer, who questioned the landscaped area (which had a typo that was corrected) and the intended use of the paved area in the front of the building. The Engineering Department requested a note for the storm water treatment system, which has been added. Mr. Bushnell added comments from the Traffic Engineer, which will be addressed.

Mr. Stebe speculated about large car carriers navigating through the parking lot. He also questioned the lighting. Mr. Stebe questioned the plans for the bituminous parking lot.

Mr. Bushnell indicated that, with a business of this size, typical large 18-wheeler tractor-trailer carriers are not utilized. He said some of the current lighting will be moved during the landscaping process. According to Mr. Bushnell, the plan is to patch cracks and seal.

Mr. Stebe stated the problem at the intersection of Hillstown Road and noted that the business next door creates a lot of traffic. His concern is the visibility when leaving the proposed site.

Mr. Bushnell replied that they had reviewed the crash data and there have been very few traffic issues in the proposed area. The location will not be a large traffic generator.

Ms. Potocki referred to the housing across the road and asked about the concrete walks. She also inquired about the placement of the lights. Ms. Potocki questioned whether a Town Operation & Maintenance plan for the hydrodynamic separators has been submitted.

Mr. Bushnell stated that they will only be doing the concrete walks along the building. The walk along the street will not be changed. He detailed the location of the proposed lights. Mr. Bushnell explained that a preliminary plan for the hydrodynamic separators has been included, though they will submit the plan for the actual units when construction begins.

Mr. Allie Hudroge, owner of Hairam Ventures, LLC, explained that there are a total of eight light poles existing on the property. The plan is to move two closer together, and he pointed to the planned spot for each light.

Mr. Prause noted that there are 14 spaces on the east side of the property. He assumed those will be for customers and handicapped spaces for employees. Mr. Prause inquired whether there will be bulk oil storage.
Mr. Bushnell responded that employee parking is in the rear, but a handicapped employee could certainly park on the side. Mr. Prause and Mr. Bushnell had a detailed conversation about the parking plans. The oil storage will be inside, above ground according to Mr. Bushnell.

Mr. Prause questioned how they meet the bulk oil requirements of Art. IV, Sec. 5.03.03, as far as the minimum front yard and side yard requirements. He noted that the minimum front yard is 60 ft., the minimum side yard is 30 ft., and bulk oil storage tanks cannot be closer than 200 ft. to any residential dwelling.

Mr. Bushnell explained where the bulk oil storage will be, about 50 ft. from the side property line and 75 ft. from the front property line. He reported that it will be more than 200 ft. from Squire Village.

Mr. Prause inquired about the general safeguards against surface oil leakage of gas and oil, which Mr. Bushnell explained in detail. Mr. Prause asked for clarification regarding the masonry area around the dumpster, which Mr. Bushnell clarified. Mr. Prause assumed that any spill would go toward the hydrodynamic separator.

Ms. Potocki questioned whether there is spill containment around the above-ground storage tank, which Mr. Bushnell affirmed.

Mr. Mark Lamson, FLB Architecture & Planning, introduced himself. Mr. Lamson reported that the changes to the building will be minimal and described them in detail. He described the double doors that will provide access to the showroom. Mr. Lamson went on to describe the proposed details of the building interior, as well as the plans for the exterior. At this point, the service bay will be Phase II. They currently have a service area in another location; once the sales are open, they will add the service to it.

Noting that Spencer Street is to the south, Mr. Stebe said that the information the Commission has shows the glass front entrance on the north elevation.

Mr. Lamson noted that the service area will be utilized as a storage area temporarily.

Ms. Potocki inquired about the floor and Mr. Lamson stated it is concrete. She questioned whether it would have a drain, noting that there was no depiction of new piping.

Mr. Lamson acknowledged that they do not have those details yet.

Mr. Bordeaux explained that, should the Commission decide to approve the special exception, the applicant will be required to get a building permit. The Zoning Enforcement Officer cannot sign off on a building permit without the Planning and Zoning Commission’s approval of the special exception. Because this will be a phased application, it appears as though the partitions will be installed, the exterior improvements will be subject to a building permit, and a separate building permit will be required for lifts and anything related to service improvements. In addition, hydrodynamic separators information is required to be certified by the Engineering Staff.

Ms. Potocki questioned whether “repairs” have been taken into consideration in terms of customer parking.
Mr. Lamson pointed to the five parking spaces that are for service customers and the cars they drop off.

Mr. Bordeaux added that the vehicles to be maintained are inventory or cars that had been sold at the site.

Mr. Prause questioned the layout for customer entry, which Mr. Lamson clarified.

Mr. Anderson inquired about the fence on three sides of the property.

Mr. Hudroge gave the history of his business; specifically, he discussed the Vernon location. He explained that the fence will simply mark the perimeter.

Attorney Penny explained that an opportunity arose to acquire land abutting the property at the rear. If the plan comes to fruition, it would necessitate a return to both the Zoning Board of Appeals and the Planning and Zoning Commission for approval to put the service facility on that site. He stated that the applicant also has a facility in Manchester on Tolland Turnpike.

Attorney Penny enumerated the issues the Commission is to consider.

Mr. Bordeaux reported two outstanding Staff memos from John DiBiasi, Assistant Town Engineer, and from the Zoning Enforcement Officer. In addition, the location approval was granted by the Zoning Board of Appeals with no conditions or modifications.

Mr. Bergin sought clarification on the phasing and the effect on the project. He stated that he supports having it as a contingency. He questioned whether the site plan would return to the Commission if the service portion of the plan is never realized.

Mr. Bordeaux and Mr. Anderson responded that it would most likely be administrative.

There were no members of the public to speak.

MOTION: Mr. Kennedy moved to close the public hearing. Mr. Bergin seconded the motion and all members voted in favor.

The Chairman closed the public hearing at 8:10 P.M.

I certify these minutes were adopted on the following date:

_________________________________________  _________________
Date                                               Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.
ROLL CALL:

Members Present: Eric Prause, Chair
Patrick Kennedy, Vice Chair
Michael Stebe, Secretary
Timothy Bergin

Alternate Member Sitting: Bonnie Potocki

Alternate: Teresa Ike

Absent: Jessica Scorso
Julian Stoppelman

Also Present: Gary Anderson, Director of Planning
Matthew Bordeaux, Senior Planner
David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Business Meeting at 8:10 PM. The Secretary read the legal notice when the call was made.

HAIRAM VENTURES, LLC – Request a special exception per Art. II, Sec. 24.02.01 (h) for automobile sales and service at 119 Spencer Street. – Special Exception (2019-050)

Special Exception (2019-050)

MOTION: Mr. Kennedy moved to approve the special exception in accordance with Art. II, Section 24.02.01(h) for automobile sales and service at 119 Spencer Street, including approval of the phasing request contained in the applicant’s letter of June 26, 2019 and the accompanying Phase 1 floor plan, with the modifications for the Detailed Site Development Plan as specified in Staff memoranda from:

1. John DiBiasi, Assistant Town Engineer, dated July 1, 2019; and

Mr. Bergin seconded the motion.

Mr. Stebe interjected that the application itself referred to specific fence heights. He understood Town Staff and the applicant were looking into a lower height and questioned whether it should be added or whether it would be administrative. He added the same question regarding the directional labels on the frontages and elevations.
Mr. Anderson stated that the fence height would be mentioned as a modification, either as a number or to be determined by the applicant and Town Staff.

As the applicant concurred with 6 ft., Mr. Stebe asked if the applicant would be amenable to a modification requiring 6 ft.

**AMENDED MOTION:** Mr. Kennedy moved to amend the motion to add a modification that the fence height be no greater than 6 ft. Mr. Bergin seconded the motion and all members voted in favor.

All members voted in favor of the amended motion.

The reason for the approval is that the proposed project meets the special exception criteria.

Mr. Stebe added that this section of Spencer Street is growing rapidly. He reported that he approves of the plan.

Mr. Prause noted that the proposal fits well with the Plan of Conservation and Development. As stated on the record, this is a commercial corridor and a mixed use regional center; as such, the plan is very suitable in location.

41 PROGRESS DRIVE, LLC – For a proposed building addition and parking expansion at 41 Progress Drive. – Special Exception Modification (2019-054); Erosion & Sedimentation Control Plan (2019-055)

Mr. Mark Peterson, Professional Engineer, Gardner & Peterson Associates, Tolland, CT introduced himself. Mr. Peterson displayed the site plan and explained the details, noting that the applicant would like to add a 100 x 200 ft. building addition for manufacturing on the north side of the building, additional parking along the front, and an area for deliveries. He reported the outstanding comment from Staff.

Mr. Peterson reported that there is a new storm water management system with a catch basin in the corner of the parking area, two catch basins in the loading dock and another structure at the lower end of the site for Progress Drive. He noted that there is a hydrodynamic separator just downstream of the catch basin, which discharges into an infiltration system. Mr. Peterson detailed the sedimentation and erosion control measures. Lighting and landscaping will be added to the site plan, according to Mr. Peterson, and he explained the details.

Mr. Bergin questioned whether any thought was given to extending the proposed parking addition to the loading area; Mr. Peterson detailed the reasoning for not doing so. Regarding the anti-tracking pad, stated Mr. Bergin, with two curb cuts, construction equipment could not use the tracking pad entrance.

Mr. Peterson noted Mr. Bergin’s concern. He stated that he would be happy to add another entrance at the northerly curb cut. The future plans for the curb cuts were explained in detail.

Ms. Potocki questioned the length of the construction phase. Mr. Peterson assumed it would be no more than a calendar year.

Ms. Potocki reiterated that the site would be disturbed through a calendar year for the area, assuming that it would be more active during some times of the year. She questioned when the infiltration will be installed. Ms. Potocki assumed Mr. Peterson did not anticipate any impact on drainage on Progress Drive during the full year.
As the catch basins are being installed, according to Mr. Peterson, the drainage system would be installed for the infiltration. He stated that there is a slight high point in the curb cut along the street line and proceeded to detail the plan, as well as the parking that has been added.

Mr. Prause sought confirmation that a parking lot expansion was done last year.

Mr. Peterson reminded the Commission that he appeared about a year ago for the construction of a parking area. He explained that additional handicapped parking will be installed.

Mr. Stebe, referring to the new catch basin that will be installed, noted that there is a paired catch basin at what is labeled as a loading dock. He asked whether there is anything in the catch basin as a system, because if it is a loading dock there will be trucks on top of it.

Mr. Peterson reiterated that the hydrodynamic separator will be further downstream. Submittal will be sent to Staff once a specific product is selected for their review before it is ordered and manufactured for water quality treatment.

Mr. Bordeaux stated that there is one outstanding comment from the Traffic Engineer; sight distances provided on the plans needed adjustment. He believed the applicant will be able to satisfy the sight requirements at the location.

**Special Exception Modification (2019-054)**

**MOTION:** Mr. Kennedy moved to approve the special exception modification in accordance with Art. II, Sec. 16.15.12(b) for a proposed building addition and parking expansion at 41 Progress Drive, with the modifications as specified in Staff memoranda from:


Mr. Stebe seconded the motion and all members voted in favor.

**Erosion & Sedimentation Control Plan (2019-055)**

**MOTION:** Mr. Kennedy moved to approve the erosion and sedimentation control plan, with the modifications as specified in Staff memoranda from:


Mr. Stebe seconded the motion and all members voted in favor.

**KEITH BELLEROSE – For a 20’ x 25’ addition to the existing house at 463 Birch Mountain Road. – Inland Wetlands Permit – Determination of Significance (2019-068); Inland Wetlands Permit (2019-068)**

Mr. Bellerose gave a detailed explanation of the proposed addition. He stated that, approximately four years ago, he submitted an administrative application to move from two septic systems to a sewer, which also traversed the wetland, and to install a new driveway. The Building Department has approved the addition and the Zoning Enforcement Officer is awaiting this application’s approval.

There is a bridge extending from Birch Mountain Road into the driveway, and Mr. Bellerose described the silt fences and hay bales that will be installed around that, as well as on top of the wetland area to the left of the driveway.
Mr. Bellerose stated that, after approval, they hope to have the building erected before it begins snowing. He reported that contractors are lined up.

Mr. Stebe reported that the application mentions “rigorous regrading.”

Mr. Bellerose noted that, over the years, the property has become wavy due to all the paths water has traversed; it will be leveled out with the fill from the foundation excavation.

Ms. Potocki questioned whether the addition will be on a foundation or piers. Mr. Bellerose said there will be a foundation; there is currently a full basement and they will be adding on to that. Ms. Potocki questioned the storage of material removed and Mr. Bellerose reiterated that the material will be used to regrade the property. Ms. Potocki questioned the length of the project, which Mr. Bellerose restated. Ms. Potocki and Mr. Bellerose had a discussion about using an erosion control blanket over the regraded and seeded area.

Mr. Bergin inquired about the effect of filling in the water channels.

Mr. Bellerose referred to the site plan and pointed out the water flow into the brook, noting that it has become much worse this year. He stated that is the reason for installing the drywell, and explained the amount of area to be filled.

Mr. Prause sought to clarify that the proposed construction will be close to the wetland boundary. Mr. Bellerose reported that the closest it will get to the wetland is 36 ft. Mr. Prause inquired about how close the regrading will be to the boundary, and Mr. Bellerose replied that it will be into the wetland.

Mr. Laiuppa reported that he visited the site and the yard is very steep. While he did not delineate them, the wetlands on the map are probably exaggerated, he stated. He saw the ruts in the yard from the erosive forces of water flowing over land in the upland area. In his opinion, the regrading that will occur, although some of it will fall within the official wetland, will most likely not be in the actual wetland. Mr. Laiuppa referred to Ms. Potocki’s comment about netting for stabilization and said, if the Commission is amenable to it, he would be happy to work with the applicant in the event that he seeds in the off-season.

Mr. Bordeaux interjected that, if erosion occurs, the site is not in compliance with the permit. Otherwise, he stated, any means of providing the stabilization required per the approved plan should be acceptable and he was not sure additional language in the form of a condition or modification would be necessary.

**Inland Wetlands Permit – Determination of Significance (2019-068)**

**MOTION:** Mr. Kennedy moved to find the proposed activity at the above-referenced location as shown on the inland wetlands permit application 2019-068 will not have a significant impact on the wetlands and therefore will not require a public hearing. Mr. Stebe seconded the motion and all members voted in favor.

**Inland Wetlands Permit (2019-068)**

**MOTION:** Mr. Kennedy moved to approve the inland wetlands permit for regulated activity associated with the proposed building addition at 463 Birch Mountain Road. Mr. Stebe seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity does not disturb the principal functions or values of the wetland system by significant impact or major effect.
The approval is valid for 5 years. The work in the regulated area must be completed within one year of commencement.

TOWN OF MANCHESTER – For construction of a cricket field and stone dust paths with minor drainage system modifications and construction of a grassed drainage swale at 45 and 115 North School Street. – Erosion and Sedimentation Control Plan (2019-077)

Mr. John DiBiasi, Assistant Town Engineer, introduced himself. Mr. DiBiasi described the location and presented the site plan along with the challenges when regrading to accommodate the cricket field. All areas disturbed will be replaced with grass, probably a typical mix for re-establishing turf.

According to the USDA Civil Survey, the majority of the area for the field is considered to be moderately well-drained. From the Town’s experience, there has been no major issue with flooding or ponding. Mr. DiBiasi reported that the erosion and sedimentation controls will be installed in accordance with the 2002 guidelines. The erosion and sedimentation control measures will be maintained and/or replaced by Town Staff for the duration of the project. Mr. DiBiasi explained that the existing topsoil will be screened and stockpiled, the areas of which he noted.

The southern two-thirds of the site will be cut and the elevation changed approximately 5 to 7 ft., Mr. DiBiasi explained. That material will be moved to fill the northern end of the site, raising it approximately 3 to 4 ft. Other plans to reduce runoff are proposed, he stated, and there will be a grass swale around a portion of the perimeter to prevent runoff due to the proposed cut slope. Mr. DiBiasi detailed the measures to be taken to reduce runoff. He explained construction entrances and dust control as well.

Mr. Prause sought clarification that the south side of the field is a higher elevation, there is an area which could collect water, and the field then goes up to the playing level. He also commented on the catch basin on the west side.

Mr. DiBiasi responded that from the high point there may be a 6- to 12-inch difference between the base of the field and the drainage swale will be graded. Therefore, if there was an unusual amount of water in the drainage swale, the water would flow toward the catch basin. For the vast majority of rainfall, he explained, the water is anticipated to infiltrate into the site as it does currently.

Mr. Prause inquired about landscaping as part of the plan.

Mr. DiBiasi reported that the plan set included a tentative landscaping plan showing the layout of the field. He explained that, in order to accommodate an appropriately sized field due to International Cricket rules and to accommodate as many different types of play as possible, there was a bit of cut on the south side due to the elevation change; they are doing their best to balance the use of material onsite to minimize the amount of new material required. In that effort, part of the parking lot and a couple of trees on the perimeter of the parking lot would be impacted, necessitating removal. Mr. DiBiasi stated that there has been discussion with the Parks Department, which is in the process of working with their usual local venders to select appropriate replacement trees.

Ms. Potocki requested clarification of the stockpiles, the type of soil, the length of the process, and whether there will be ambient air dust monitoring or dust meters.

Mr. DiBiasi explained that the stockpile is separated from the residential home on the corner by the existing press box structure that houses the electrical equipment for the field lighting. He reported the soil testing
results. The approximate timeline is roughly four months, according to Mr. DiBiasi. Dust monitoring is not proposed at this time, but they will work with Mr. Laiuppa.

Mr. Stebe questioned what will be done for sedimentation control while working on the elevation to keep it in place.

Mr. DiBiasi stated that the goal is to keep as much grass and vegetation as possible for stabilization until the work proceeds in that area. The objective is to establish the form of the grass swale in order help in the event of rain during construction, which would allow other measures to prevent further erosion.

Mr. Bordeaux noted that there are not many options in terms of the time of year for the project. The site will be stabilized by the winter. The deadline is the growing season and, if the work is not completed, the site must be temporarily stabilized until next season when the work could be finished. He reminded the Commission that modifications will be made throughout the course of the project.

Ms. Potocki questioned whether the work will be done by Town staff.

Mr. DiBiasi stated that they anticipate the project will be completed by Town staff, whether it is the Parks Department or the Highway Department. There will be some electrical work as well as the requirement of other specialized equipment that would necessitate a contractor.

Erosion and Sedimentation Control Plan (2019-077)

**MOTION:** Mr. Kennedy moved to approve the erosion and sedimentation control plan. Mr. Stebe seconded the motion and all members voted in favor.

**JAYDEEP DEDANIYA – Pre-application review for a PRD Zone change at 486 Tolland Turnpike.**

Ms. Dedaniya introduced herself and explained that she and her husband are interested in a piece of property. She displayed a map, pointing out the lot between Jefferson Street and Tolland Turnpike. The property had previously been approved for 8 two-family units.

Mr. Anderson interjected that there has not been a zone change on the property; it is not zoned Planned Residential Development (PRD). He was not sure that there has been an approval, though the owners may have come for a pre-application meeting.

Mr. Prause stated that the plan looks similar to another apartment complex on Jefferson Street.

Ms. Dedaniya agreed, noting that the other complex has 2 acres of land and 24 units, apartment style.

Mr. Prause stated that the Commission can offer their opinion, but it would be non-binding. He questioned the size of the property. The existing units are off of Jefferson but are not between Jefferson and Tolland Turnpike.

Ms. Dedaniya reported that the property is 1.6 acres with frontage on Tolland Turnpike and Jefferson Street, on the other side of the existing complex.

Mr. Kennedy questioned the makeup of the neighborhood.

Ms. Dedaniya explained that Educational Playcare is next to the property. Across the street are condominiums on Donahue Lane. She noted that Bob’s Discount Furniture and Northwest Park are in close proximity.

Mr. Kennedy acknowledged that the property is not in a single-family area, but a mixed area.
Mr. Prause noted that there are single-family homes and a cemetery to the west on Tolland Turnpike.

Mr. Kennedy explained that, with the single-family homes in the area, there may be some pushback.

Ms. Potocki questioned whether they have developed elsewhere. In addition, she inquired whether they have identified a builder or someone to do the site development.

Ms. Dedaniya replied that this would be their first development. She responded that they have not contracted with a company, but have been in discussion with Nordic Builders in Tolland.

Mr. Bergin asked if the buildings would be duplexes, and how many levels there would be per building.

Ms. Dedaniya stated that they have only presented a basic plan. The thought was to possibly build more than two units per building.

Mr. Bergin assumed it would be more of a clustered plan. In his opinion, the location is appropriate as there are condos to the north and apartments to the south, while it is also in the mall area with bus stops and parks.

Ms. Potocki questioned the density of previously-approved developments.

Mr. Prause noted that it varies throughout the neighborhood.

Mr. Anderson explained the area’s character from the Plan of Conservation and Development. It is 3 to 10 units per acre, he interjected. Some of the developments in that area are more dense if they are in a community corridor or a mixed use zone. Tolland Turnpike is a Traditional Suburban character area, but is between the Buckland Hills area and the Tolland Turnpike area.

Mr. Bordeaux informed the Commission that there is a PRD that has not been constructed, though the Commission recently approved an extension of the approval. That would be at the southern end of Slater Street, 16 units with wetlands, but would be very comparable to this project. He stated that he could get additional information about the density, after subtracting the wetlands and steep slopes which do not appear to be a factor for this site.

Mr. Stebe interjected that, to his recollection, it had twists and turns to it because of where they had to put the entry. He noted that it is an interesting location; depending on where you look, there is a different landscape.

Ms. Potocki asked Staff whether the applicant could do a cluster subdivision. Mr. Anderson replied that there is probably not enough land to do a cluster subdivision.

Mr. Prause reported to the applicant that there are many apartments in the area, which helps their argument. However, there are many people who make public comments and have the opinion that there are too many apartments in that area. He estimated that traffic will be an issue. Mr. Prause acknowledged that the traffic from the current apartments on Jefferson Street does not flow directly to Tolland Turnpike. He suggested an entrance off of Jefferson Street. There are not many apartments that abut existing single-family homes, and this proposal would abut single-family houses on the east and the west, and there may be push-back from the neighbors.

VANLOSE ENTERPRISES, LLC – Request a special exception per Art. II, Sec. 24.02.01(h) and Art. IV, Sec. 5.01.02 for construction of employee parking lots and a vehicle storage lot at 86 Oakland Street and 11 and 25
Edward Street, to be used in conjunction with the Mazda new car dealership located at 80 Oakland Street. – Special Exception (2019-051) – Request for Extension Until July 15, 2019

Mr. Bordeaux explained that the applicant wished to use the site for parking for both employees and inventory, but the Zoning Board of Appeals denied the request for a Certificate of Location Approval. The applicant is now exploring options to use the site for employee parking only, which would not require the Certificate of Location Approval.

Ms. Potocki questioned whether the application would be removed from the agenda if the applicant does not receive approval from the State for their interpretation of the statute.

Mr. Anderson informed the Commission that the order of operations would be up to the applicant. If the State determined that they need a Certificate of Location Approval, the applicant could come before the Commission and ask for approval of a special exception, though they would have to return to the ZBA.

Special Exception (2019-051) – Request for Extension Until July 15, 2019
MOTION: Mr. Kennedy moved to approve the request for an extension until July 15, 2019. Mr. Stebe seconded the motion and all members voted in favor.

KENNETH BOYNTON – Proposed 44-lot residential cluster subdivision served by sanitary sewer and public water at 426 Wetherell Street.

Inland Wetlands Permit (2019-036) – Request for Extension Until August 12, 2019
Subdivision (2019-037) – Request for Extension Until August 12, 2019
Erosion & Sedimentation Control Plan (2019-038) – Request for Extension Until August 12, 2019
MOTION: Mr. Kennedy moved to approve the requests for extensions until August 12, 2019. Mr. Stebe seconded the motion and all members voted in favor.

ADMINISTRATIVE REPORTS:

Mr. Bordeaux reported that there was an administrative approval of an inland wetlands permit for application 2019-065. There was an installation of a patio, fire pit, and landscaping occurring in a regulated upland review area in the Highland Oaks subdivision at 39 Castle Hill. The Inland Wetlands Agent and Mr. Bordeaux reviewed the application. There were no outstanding Staff comments and the permit was approved.

APPROVAL OF MINUTES:

June 3, 2019 – PZC Business Meeting, Aquifer Protection Agency Meeting
MOTION: Mr. Kennedy moved to approve the minutes as written. Mr. Stebe seconded the motion and all members voted in favor.

June 17, 2019 – PZC Business Meeting, Aquifer Protection Agency Meeting
MOTION: Mr. Kennedy moved to approve the minutes as written. Mr. Bergin seconded the motion and all members voted in favor.
RECEIPT OF NEW APPLICATIONS:

1. MANCHESTER EARLY LEARNING CENTER, INC. – Special Exception Modification (2019-080) – Removal of two existing storage sheds, construction of a new storage/maintenance shed, and construction of a new 6-space parking area at 80 Waddell Road.

2. THE PLAZA AT BURR CORNERS, LLC – Special Exception Modification (2019-082) – For improvements to McDonald’s restaurant, including upgrades to the drive-through, building renovations, and minor site improvements, at 1221 Tolland Turnpike.

MOTION: Mr. Kennedy moved to close the business meeting. Mr. Bergin seconded the motion and all members voted in favor.

The Chairman closed the business meeting at 10:00 P.M.

I certify these minutes were adopted on the following date:

_________________________________  _______________________________
Date                                                                                      Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.
ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Michael Stebe, Secretary
Timothy Bergin
Jessica Scorso

Alternates: Julian Stoppelman
Teresa Ike
Bonnie Potocki

Also Present: Gary Anderson, Director of Planning
David Laiuppa, Environmental Planner/Wetlands Agent
Katie Williford, Administrative Secretary

The Chairman opened the Public Hearing at 7:08 P.M. The Secretary read the legal notice for the application when the call was made.

PRANAY & MAYA SHAH – Change of zone from Residence A to Neighborhood Business to permit change of use from convenience store with beer permit to package store permit at 1 Broad Street. – Zone Change (2019-078)

Attorney Stephen Penny, an attorney practicing in Manchester, presented the application on behalf of the applicants, Pranay “Peter” Shah and his wife, Maya. Approval of the application would change the property’s zoning from Residence A (RA) to Neighborhood Business (NB), he explained, and he described the parcel’s location, size, frontages, and surrounding properties. He noted that public water and sewer are available, as are other utilities. Both Broad Street at the site and Hilliard Street, as it moves northeasterly from the site, are classified as Collector Streets in the Town’s Plan of Conservation and Development (POCD), Attorney Penny stated. There are no wetlands or watercourses on the site. The principal use in this large Residence A zone is single-family homes with some multifamily complexes.

Attorney Penny stated that the site has been developed since 1945 with an approximately 1,400 sq. ft. commercial building and appurtenant paved parking that has served for some decades as a neighborhood convenience store, a legal nonconforming use. No exterior changes to the site are proposed. The applicants have operated the current convenience store with a grocery store beer permit for 24 years, as their predecessor also did before them. However, competition with the nearby CVS pharmacies has reduced their revenues to an unsustainable level, Attorney Penny said.

Attorney Penny discussed the regulations that apply to the NB zone, quoting its purpose as “a commercial district within or adjacent to residential neighborhoods. Its purpose is to provide stores and service establishments for the convenience shopping and service needs of persons residing in the neighborhood and incidentally to others peripheral to the neighborhood.” He read
from Article II, Section 24, which sets forth permitted uses in the zone, noting that those uses represent a broad range of retail uses determined, per the regulations, to be compatible within or adjacent to residential neighborhoods, including alcoholic liquor sales. He added that personal services, professional offices, restaurants, and some other uses are also included, and all of these uses are subject to Article II, Section 9, the General Requirements for Business Zones, which include safeguards such as noise abatement, residential zone screening, lighting, access, and parking. He went on to list the uses permitted by special exception in the NB zone.

There are no lot area or frontage dimensional requirements in the NB zone, but a 25 ft. front yard and 15 ft. side yards are required, Attorney Penny said.

Article IV, Section 8, regarding alcoholic liquors, does not raise any concerns for this application, as these regulations deal with separation distances from other liquor permits or from uses such as colleges, schools, places of worship, hospitals, or libraries, none of which exist within the protective distances from this site, Attorney Penny said.

The proposed package store permit use is treated in the regulations in the same fashion as the existing grocery store beer permit, Attorney Penny stated; they are the only liquor permits permitted as-of-right in the NB zone.

Attorney Penny stated that the POCD character map designates this area as Traditional Suburban, and read the definition from the POCD. He noted that the plan reports that its goal is to maintain and enhance these types of character where they currently exist and encourage them where they do not. While the POCD does not mandate the Commission’s decision, Attorney Penny said, the Commission must properly consider the plan in its decision making. He stated that the proposal is compatible with and an integral part of the mixed-use Traditional Suburban character area. He reiterated that Broad Street and Hilliard Street are Collector Streets and are appropriate to accommodate the traffic associated with the proposed use. The store would be open for fewer hours than permitted by state law, Attorney Penny stated, and the hours of operation would be Monday through Thursday 8:00 A.M. to 8:00 P.M., Friday from 8:00 A.M. to 9:00 P.M., Saturday from 8:00 A.M. to 9:00 P.M., and Sunday from 10:00 A.M. to 2:00 P.M. The store is operated only by Mr. Shah and his wife, he said.

Attorney Penny concluded that the proposal is consistent with the POCD, the zoning regulations, and the decades long retail use of the site. He added that there are no comments from Town Staff.

In response to a question from Mr. Stebe, Attorney Penny repeated the hours of operation.

Mr. Stebe asked for clarification of the difference between the existing use and what is proposed. Attorney Penny explained that a package store permit is for all liquors, while a beer only permit goes with a grocery store. A store must have groceries to qualify for a beer only permit, but a package store cannot have groceries; it is strictly a place where alcoholic liquors are sold.

In response to a question from Mr. Stebe, Attorney Penny confirmed that the applicant intends to stop selling grocery items and change the business to a package store.

In response to a question from Ms. Scorso, Attorney Penny stated that no exterior changes are proposed; the only changes to the exterior would be those that the Zoning Enforcement Officer might ultimately determine are required, such as landscaping or striping parking spaces.
Mr. Stoppelman asked about the parking on the property. Mr. Shah replied that there is parking for 5 cars in the front and for 6 cars on the side of the building.

In response to a question from Mr. Stoppelman, Attorney Penny confirmed that the proposed zone change would make the use conforming; it currently only exists because it predates the zoning regulations.

Mr. Bergin asked whether deliveries and shipments will substantially change once the business becomes a package store. Mr. Shah explained that beer deliveries start after 8:00 A.M. and they don't deliver beer after 6:00 P.M., except in the case of big holidays. Deliveries are typically between 8:00 A.M. and 5:00 P.M. Mr. Bergin said his concern related more to delivery trucks at that intersection. Mr. Shah explained that the trucks park in his parking lot, not on the street.

Mr. Prause asked about the history of the nonconformity. Attorney Penny stated that the building has been there since 1945, and he guessed it has most likely been a convenience store for its entire existence.

Mr. Prause noted that another goal in the POCD is mixed-use and walkable neighborhoods. He asked if a package store would still help build a walkable neighborhood. Attorney Penny replied that the regulations set forth uses that have already been determined appropriate to serve residential neighborhoods, and one such use is a package store.

Mr. Prause noted he did not see other NB zones north of Middle Turnpike, except for Blue Duck Plaza on Green Road. Attorney Penny stated that, in all the years he has been practicing, this is the first NB zone application he has filed, so he expects there are not many in town.

Mr. Anderson stated there were no staff comments on this application.

Chairman Prause asked that any member of the public that wished to speak either in favor of or in opposition to this application come forward at this time.

Attorney Penny provided two letters in support of the application from Mr. Shah’s neighbors, which he read into the record. The first was from Lorraine Walker, 5 Broad Street, stating that she had no issues or concerns with the proposed change of the Quick Mart to a package store. The second letter was from Sandra Gurski, 117 Loomis Street, stating that she fully supports Mr. Shah’s proposal to change the store to a liquor store, and that she has known him for a long time and he is a very responsible and friendly business owner.

Mr. Anderson read into the record public comments that were received by the Planning Department. The first was an email from James Rivera, 130 Westerly Street, stating that he had concerns about possible loitering and panhandling, but he believed that could be controlled by the store owners. The email also discussed littering at the convenience store and said it would be advantageous to have a package store instead, to eliminate the littering and the children walking in the street to get to the convenience store. Mr. Anderson then read a letter submitted by Barry Pinney, 15 Ashland Street, which stated that he has known Mr. Shah since the store opened, that customers always have a good experience at the store, and that Mr. Shah and his family are an asset to Manchester.

Mr. Kennedy moved to close the public hearing on this application. Ms. Scorso seconded the
motion and all members voted in favor.

VANLOSE ENTERPRISES, LLC – Request a special exception per Art. II, Sec. 24.02.01(h) for construction of employee parking lots at 86 Oakland Street and 11 and 25 Edward Street, to be used in conjunction with the Mazda new car dealership located at 80 Oakland Street. – Special Exception (2019-051)

Attorney John LaBelle, 243 Main Street, Manchester, introduced himself; Mr. Steve Carter, owner of Vanlose Enterprises and Mazda of Manchester; and Mr. Eric Peterson, an engineer with Gardner & Peterson Associates. He described the subject properties, which include 86 Oakland Street to the east, which is vacant, as well as 11 and 25 Edward Street. Most people using the Mazda dealership approach from the north and south on Oakland Street, a heavily travelled community corridor, he said. There are a variety of commercial uses on the east side of Oakland Street, a condominium complex to the north, and a single-family home on Edward Street after it makes the 90 degree turn, Attorney LaBelle said.

Attorney LaBelle stated that the Commission approved a zone change from Residence A to General Business on January 7, 2019, and the applicant sought a special exception modification on February 20, 2019 to construct an addition and canopy at the northeast corner of the dealership property. Due to the associated loss of employee parking at the 80 Oakland Street property, the intent of the current application is to move that employee parking to the north side of Edward Street. Attorney LaBelle explained that there was a previous proposal to have some vehicle storage as well, but the current proposal is strictly parking for employees. He noted that Edward Street is narrow and has very light traffic, and the applicant owns all the properties along the east to west portion of Edward Street.

Mr. Carter stated that the employee parking is needed because of the expansion to the dealership. He reiterated that the extra car storage parking has been eliminated from this plan. The intent has always been to invest heavily in landscaping to create a parklike feeling and obscure the cars in the lot, Mr. Carter said. The dealership currently has 28 full-time employees and 5 or 6 part-time employees, and 2 or 3 employees are expected to be added at the end of the dealership expansion. The maximum number of spaces needed would probably be 36, which is what is proposed in the current plan, Mr. Carter said.

Attorney LaBelle noted that the dealership expansion is part of an upgrade that Mazda is requiring of all its new car dealers.

Mr. Eric Peterson, a professional engineer with Gardner & Peterson Associates in Tolland, discussed the details of the site plan. The parking lots are proposed in the middle of the three parcels and will have roughly 36 spaces. Another lot was initially proposed to the north, but that has been eliminated. The number of curb cuts on Edward Street will be reduced from three to one, to access the future parking.

Green space and landscaping are proposed along the perimeter of the parking and the perimeter of the property, Mr. Peterson said. Arborvitae are proposed on the perimeter of the northerly boundary, along the westerly side of the parking areas, and along the northerly boundary of 86 Oakland Street to screen residents to the north. Red maples are proposed in the green areas to provide shade and some flowering pear trees are proposed within the perimeter of the parking areas. There will be some decorative shrubbery between the parking areas, on either side, and along Edward Street. Perennial daylilies will be planted at the corner where Edward Street turns
and at the curb cuts.

Mr. Peterson stated that the parking lots will be illuminated with very low level 5' tall lights and no light will spill beyond the property boundaries.

Mr. Peterson described the drainage system. The parking lots will be graded so the drainage heads toward the middle of the two lots. Catch basins will be installed to collect stormwater, which will discharge to a stormwater treatment device just west of the parking area and then into an underground stormwater storage unit, until it percolates back into the ground. Soils on the site were evaluated and found to be loose sand and gravel, so there will be no problem accepting the water from the parking lots and there will be no runoff from these lots onto Edward Street or downstream properties, Mr. Peterson said.

Attorney LaBelle stated that combining these parcels into a single use makes sense from both a zoning and an economic standpoint. He noted that no parking is proposed on 86 Oakland Street; it is included because of the arborvitae being planted. There will be no increase in traffic, he stated, and there will be no adverse effect on properties values; the plan is for a parklike setting with extensive landscaping. The parking area will be accessible for fire and police services. Stormwater will be fully contained on the site. Attorney LaBelle stated that the proposal is compatible with the Town POCD.

Mr. Stebe asked for confirmation that the stormwater from the parking area will go back into the ground, not into the stormwater systems in the neighboring streets. Mr. Peterson said that is correct. Mr. Stebe mentioned that, in previous hearings, there was discussion of water flow and neighboring houses being affected by the addition of a large amount of pavement.

Mr. Stebe asked Mr. Carter to confirm that snow from the main dealership property will stay on that property. Mr. Carter replied that snow will not be moved back and forth; in particularly bad years of snowfall, snow is trucked out.

In response to a question from Ms. Potocki, Mr. Carter stated that the number of employees on site varies but is typically 24 or 25, including part-time employees. The dealership opens at 7:00 A.M. with one or two people and is open until 7:30 P.M. Monday through Thursday, 6:00 P.M. on Friday, and 5:00 P.M. on Saturday. The building is being expanded on the northern side, eliminating the customer parking on that side, 15 to 16 spaces.

Ms. Potocki asked where additional inventory will be stored now that the proposal has changed to only employee parking. Mr. Carter responded that it will stay on the main dealership property.

Ms. Potocki referred to prior input from residents about deliveries and asked whether delivery trucks will be staged on Edward Street and possibly use the employee parking. Mr. Carter replied that deliveries will remain as they are currently; cars are dropped off on Oakland Street in front of the dealership and driven in through the main entrance. Some parts deliveries go down Edward Street and into the dealership; that will not change.

Ms. Potocki asked whether permeable pavement had been considered. Mr. Peterson said that is often considered, but it is costly and sometimes difficult to get on small scales. Given the deep layer of sand and gravel, the chambers can be installed just as easily to achieve the same results, Mr. Peterson stated. Ms. Potocki said her concern was maintenance and asked what the
maintenance schedule would be. Mr. Peterson said there is a port that can be opened and, if water is ponding inside, there is an issue that would have to be addressed. He added that he did not expect that, given the soils. Ms. Potocki asked about application of salt and sand in winter that could clog the ports. Mr. Peterson replied that sand is something of the past and the treatment device located upstream of the storage and downstream of the catch basins is the hydrodynamic separator style that separates sediments and oils from the stormwater.

Ms. Potocki asked if there is a lighting plan. Mr. Anderson said he did not believe there is a photometric plan. Mr. Peterson added that he has it at his office. He noted that the lights are actually 4 ft. tall and they shine down on the ground.

Mr. Prause asked if alternatives to arborvitaes had been considered, due to the possibility of deer eating them. Mr. Peterson responded that they were looking for something fast growing and he still recommends arborvitaes.

Mr. Prause asked if the applicant had considered a zone change to Off Street Parking zone. Attorney LaBelle stated that, at the first preliminary review of the proposal, it was determined that it would be better to change the zoning to General Business. At this point, the construction of the addition needs to commence and the dealership needs the parking; going back to square one probably does not make sense, he said. Mr. Prause said a benefit of the Off Street Parking zone is that it is intended as a buffer between a business and residential properties, and it prescribes some specifics of what should be included, such as evergreen trees at least 5 ft. tall with no gaps between them. Attorney LaBelle responded that that has been accomplished with the arborvitaes and the Commission can approve the proposal with conditions. Mr. Prause said he likes section 17.01.05 in the Off Street Parking zone regulations, which reads, “There shall be a landscaped buffer strip consisting of a solid screen of evergreens at least four feet in height at the time of occupancy, or a solid fence at least five feet in height along each boundary line which abuts or faces a residential zone.” Mr. Prause suggested a note on the plans that specifies there will be a solid screen of evergreens.

Mr. Prause asked about a gap in the tree line and Mr. Peterson replied that it is the location of the stormwater treatment unit. There are plantings along Edward Street that will hide that area, he said.

Mr. Prause asked if signage is proposed and Mr. Peterson said it is not.

Mr. Prause asked if the applicant would be amenable to a condition requiring a solid screen of evergreens. Mr. Peterson said they would.

Mr. Anderson said there were some staff comments from the Zoning Enforcement Officer and the Engineering Division, but there was nothing that would prevent an approval, and modifications could be made on the final plans.

Regarding the type of treatment for vehicle parking, Mr. Anderson stated that only bituminous asphalt parking is allowed.

Chairman Prause asked that any member of the public that wished to speak either in favor of or in opposition to this application come forward at this time.

Mr. Wesley Shaver, 92 Oakland Street Unit D, said he saw similar plans at the Zoning Board of
Appeals meeting and this is an improvement over those. He said he appreciated the improvement, but he was shocked that the properties were even changed from residential. He urged the Commission to change the zoning back to residential. Mr. Shaver said he liked the Chairman’s suggestion of requiring a solid screen of foliage. Otherwise, he did not understand how maintaining the foliage is enforceable. He said he did not wish to have parking 40 ft. from his bedroom window and there are already issues with car alarms going off in the middle of the night. Mr. Shaver asked if the row of parking to the east is even necessary, as he would like the proposal to be minimized. If a car dealership needs spaces, they will take them, he said, and promises that it is only employee parking are unenforceable.

Mr. Anderson read into the record a letter received from Ms. Laura Edwards, 99 Tanner Street, discussing her concerns about the environmental impacts of the plan. Regarding two mature trees to be removed, Ms. Edwards noted that using the existing curb cut would leave one of the trees intact, but if it needs to be removed, sizeable and similar maple trees should be planted on 86 Oakland Street bordering Edward Street. The other tree should be kept and a picnic table for employees could be put under it, instead of the two or three parking spaces proposed there, Ms. Edwards suggested. The letter went on to discuss other trees that are not identified on the submitted plans, stating that every effort should be made to keep trees with larger diameters. Ms. Edwards’ second concern was the covering of more than 22,000 sq. ft. with impervious paving, and she suggested the applicant consider the use of pervious material.

Mr. Prause stated that, without a Certificate of Location Approval from the Zoning Board of Appeals, inventory cannot be parked in these spaces. It would be a zoning violation if they parked inventory there and it could be reported to the Zoning Enforcement Officer.

Ms. Potocki asked if Mr. Ken Longo, the Tree Warden, inspected the trees on this property. Mr. Anderson said he did not believe so, as the Tree Warden is responsible only for trees in the right of way and the proposal would not impact trees near enough to the right of way for him to look at.

Mr. Kennedy moved to close the public hearing. Ms. Scorso seconded the motion and all members voted in favor.

The Chairman closed the Public Hearing portion of the meeting at 8:24 P.M.

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.
ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Michael Stebe, Secretary
Timothy Bergin
Jessica Scorso

Alternates: Julian Stoppelman
Teresa Ike
Bonnie Potocki

Also Present: Gary Anderson, Director of Planning
David Laiuppa, Environmental Planner/Wetlands Agent
Katie Williford, Administrative Secretary

Time Convened: 8:24 P.M.

NEW BUSINESS:

PRANAY & MAYA SHAH – Change of zone from Residence A to Neighborhood Business to permit change of use from convenience store with beer permit to package store permit at 1 Broad Street. – Zone Change (2019-078)

Zone Change (2019-078)
MOTION: Mr. Kennedy moved to approve the zone change from Residence A to Neighborhood Business zone at 1 Broad Street. Mr. Bergin seconded the motion.

Mr. Prause said that the store is a longstanding nonconformity, so it seems that it has been working well. He understood the impact of CVS and said it is good that there is another option for this business to remain viable. The proposal fits well with the Traditional Suburban character in the Plan of Conservation and Development (POCD), as mixed-use is allowed and it contributes to walkable neighborhoods, he said. Mr. Prause said he felt this was a good use of the property.

All members voted in favor.

The reason for the approval is that the zone change is consistent with the purpose of the Neighborhood Business zone and with the Traditional Suburban Character Area in the Plan of Conservation and Development.

The zone change will be effective July 31, 2019.
VANLOSE ENTERPRISES, LLC – Request a special exception per Art. II, Sec. 24.02.01(h) for construction of employee parking lots at 86 Oakland Street and 11 and 25 Edward Street, to be used in conjunction with the Mazda new car dealership located at 80 Oakland Street. – Special Exception (2019-051)

Mr. Stebe asked how the previously discussed language requiring a solid screen of evergreens should be included in a motion. Mr. Prause suggested using part of the language from Article II, Section 17.01.05 of the regulations.

Special Exception (2019-051)

MOTION: Mr. Kennedy moved to approve the special exception in accordance with Art. II, Sec. 24.02.01 (h) for construction of employee parking lots at 86 Oakland Street and 11 & 25 Edward Street, with the modifications as specified in staff memoranda from:

1. Jim Davis, Zoning Enforcement Officer, dated July 10, 2019; and
2. John DiBiasi, Assistant Town Engineer, dated July 15, 2019;

and with the condition that there shall be a landscaped buffer strip consisting of a solid screen of evergreens at least four feet in height at the time of occupancy. Such buffer strip shall be suitably and neatly maintained by the owner and/or lessee, and/or occupant at all times.

Mr. Stebe seconded the motion.

Ms. Scorso said the Commission is happy with Mazda’s growth and wants to support the business, but also wants to take into consideration the neighborhood and public comments. The applicant received important information about additional vehicles not being parked in the parking lot, she said. Ms. Scorso said she is happy the Commission is going to approve this and hopes the applicant has heard the residents and will apply that to the application.

Mr. Prause, Mr. Kennedy, Mr. Stebe, and Ms. Scorso voted in favor. Mr. Bergin voted against the motion. The motion passed 4 to 1.

The reason for the approval is that the applicant meets the Special Exception Criteria.

KENNETH BOYNTON – Proposed 44-lot residential cluster subdivision served by sanitary sewer and public water at 426 Wetherell Street. – Inland Wetlands Permit Determination of Significance (2019-036)

Attorney Dorian Famiglietti, of Kahan, Kerensky, & Capossela, stated that the applicant has pending applications for a wetlands permit and a cluster subdivision. Tonight’s presentation will focus on the determination of whether a public hearing is required for the wetlands permit application.

Attorney Famiglietti said that the property is off of Wetherell Street, but access to the 44 proposed lots would be from Bayberry Road and Wilson Way. Four wetlands were mapped on the property by Soil Scientist George Logan and there are permanent direct impacts on Wetland D to the west, and temporary direct impacts to Wetland C along Wetherell Street.
Mr. Eric Peterson, Gardner & Peterson Associates, said the proposal on the 30-acre parcel is to extend Bayberry Road all the way around to Wilson Way. Both have temporary cul-de-sacs, to be removed. A secondary street is also proposed, to make a loop and a small cul-de-sac in the middle. The proposal is to create 44 new building lots.

Mr. Peterson said that the property contains four wetlands that were mapped by the soil scientist. Wetland A, at the southwest corner of the property, is a small, isolated, forested wetland, which the soil scientist believes was created as an irrigation pond for farming sometime after 1934, but which now serves as a vernal pool habitat. No activity is proposed in this wetland, but some is proposed within 100 ft. A habitat enhancement area is proposed to be created uphill of the wetland to ensure that the wetland functions the same after construction. The only other activity in the vicinity of this wetland is some minor land grading for construction of Lot 13.

Wetland B is located on the southeast corner of the property and is also a forested wetland. No activity is proposed either in this wetland or within 100 ft. of it, Mr. Peterson said.

Wetland C consists of two different mapped wetlands, Mr. Peterson explained. One is an isolated emerging wetland and there are some berms that were previously installed to contain the water. The other is on the west edge of the property line and is separated by an existing farm road. Wetland mitigation is proposed in this area. There will be 1,100 sq. ft. of temporary disturbance within Wetland C and a half acre of disturbance within 100 ft. of Wetland C, he said. These disturbances include site grading and excavation that will be seeded and planted as part of the overall wetland replication plan. Low spots will be created adjacent to this wetland and water will be funneled to it to create a wetland area with appropriate plantings.

Mr. Peterson said that Wetland D, on the southwest corner of the property, is an isolated service water slope dominated by herbaceous species. Permanent impacts are proposed to 0.51 acres of Wetland D. A stormwater basin, a future road connection to the south, and a small portion of Lot 37 are proposed in this area. Approximately 1.75 acres will be disturbed within 100 ft. of the wetland for road construction, portions of some building lots, and a water pump house. Because the Town's water system in this area does not have enough pressure to service homes at the top of the hill for this project, a pair of booster pumps are proposed to be installed to increase the pressure to service these homes.

Mr. Laiuppa said there was one staff comment about the determination of temporary vs. permanent impact for Wetland C. There is regrading, which would be permanent, not temporary, unless it is restored. Attorney Famiglietti stated that it was considered temporary because it will still be a wetland, but the impacts can be recalculated based on that comment.

Mr. Kennedy said that the impacts outlined do appear significant enough to warrant a public hearing.

Inland Wetlands Permit Determination of Significance (2019-036)

**MOTION:** Mr. Kennedy moved to find the proposed activity at the above referenced location as shown on the inland wetlands permit application 2019-036 will have a significant impact on the wetlands and therefore will require a public hearing. Mr. Bergin seconded the motion.

Mr. Prause said that it is in the public interest to have this as part of the public hearing.
All members voted in favor.

SL 80 UTOPIA ROAD LLC – For construction of an approximately 25,800 sq. ft. commercial building with associated parking, drive aisle, utilities and landscaping improvements at 80 Utopia Road. - Erosion & Sedimentation Control Plan (2019-071)

Attorney T.J. Donohue, with the firm of Killian & Donohue in Hartford and Simsbury, introduced himself and Rod Szwelicki, a civil engineer with VHB.

Attorney Donohue said he represents SL Silverman, which is a subsidiary of the Silverman group and owner of SL 80 Utopia Road. They are from New Jersey and have significant developments in this area. They are seeking approval of an Erosion and Sedimentation Control Plan, as well as three waivers: One to allow existing vegetation to substitute for a buffer on the northern perimeter; one to waive the 8 ft. buffer on the southern boundary to accommodate the existing common driveway and drainage system with the adjoining lot; and one to waive the requirements for sidewalks on the east side frontage, as there are no sidewalks in the area. The site is 3.97 acres and the applicant proposes to build a 25,800 sq. ft. industrial commercial building.

Mr. Rod Szwelicki, a professional engineer with VHB, said the proposal includes 25,800 sq. ft. of commercial industrial use and 55 parking spaces with associated drive aisles, landscaping, and utility improvements. The parcel was created as a 12 lot subdivision known as Manchester Industrial Park #3. The site is currently vacant with commercial industrial uses to the south, east, and west. Part of the northern property line is industrial use as well, and part is residential apartments, he said.

The site’s drainage system was designed as a closed loop drainage system with deep sump catch basins, water quality units, and an infiltration trench that collects roof runoff and infiltrates it back into the ground, Mr. Szwelicki said. The drainage system on site will connect to the existing drainage system in Utopia Road, which was designed to handle runoff from this development and the additional 12 lots.

The Erosion and Sedimentation Control Plan was designed in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, Mr. Szwelicki said. The project will disturb 3.4 acres and is expected to start in fall 2019 and end in spring 2020. Silt sacks are proposed in all new catch basins during construction and in some nearby catch basins within the right of way and on the southern abutting property. A rip rap construction exit and entrance is proposed at the new driveway to the north, he said. A temporary sediment trap was designed at the southeast corner of the site to collect runoff during construction, to allow sediment to settle before it outlets to the system in Utopia Road.

Mr. Szwelicki reiterated that three waivers are being requested. The first is a waiver of Article II, Section 16.06.01, which requires a sidewalk to be constructed along the site’s frontage. There is a sidewalk along the interior of the industrial park, so a sidewalk in this location would connect to nowhere and Town engineering staff did not feel a sidewalk was necessary, Mr. Szwelicki said.

The second requested waiver is of the required landscaped buffer, to allow the applicant to use existing mature vegetation along the northern property line. Instead of grading that area, they are proposing a retaining wall to keep that mature buffer, Mr. Szwelicki said.
The last requested waiver is of Article II, Section 16.12 (a), which requires an 8 ft. landscaped buffer along all industrial side yards. In this scenario, there are two properties with a 30 ft. wide mutual access and drainage easement running up and down the southern property line. They propose to maintain that open for truck access and drainage, Mr. Szwelicki said. There is currently drainage piping on that property line that collects runoff for both parcels, which are under the same ownership. Adding that 8 ft. wide landscaped buffer would make truck loading and access problematic and would dam off the drainage, which there are easement rights to, he explained. The waiver is requested only for that side yard; the rest are buffered and screened as required, Mr. Szwelicki stated.

Mr. Szwelicki concluded that the Engineering Division has recommended approval of the application with modifications, and the applicant has no issue with those comments.

There was a discussion between Mr. Prause and Mr. Szwelicki about the specific sections of the regulations for which waivers were being requested.

Mr. Bergin asked how the landscaping waiver works when the plan also shows the installation of a partial buffer. Mr. Anderson said the Commission could word their motion to say, "Waiving the portion of the landscaped buffer as shown on the plan," or just cite the plan that is being approved.

Mr. Stebe asked for details around the stockpile spacing. The property looks flat but there is a 7 ft. retaining wall and the top will need to be scraped in order to level it and put the pad down, he said. Mr. Szwelicki said the site is generally flat until there is a significant grade change; rather than grade and disturb the trees, they are proposing the wall. Mr. Stebe asked if all that soil will be spread through the site or trucked out. Mr. Szwelicki said he thought the applicant would probably use it somewhere or sell it to a contractor, or another option would be to berm up the front landscape area if there is excess.

Mr. Stebe asked about the yellow rectangle on the plans. Mr. Szwelicki replied that it is the temporary sediment trap.

Mr. Prause asked if there is a trail to Beechwood Apartments from the property to the south. Mr. Szwelicki said he believes it is a path, but not to the apartments; it goes to another business. He believed the pathway would remain.

Mr. Anderson said there were staff comments from Engineering that were technical in nature and could be addressed on final plans.

Regarding Mr. Bergin’s question about the waiver, Mr. Anderson suggested the wording, "Waive those sections as shown on the submitted plan.” He noted that Section 16.06.01 deals with the buffer along a residence and they have done that in their plan, so that is why that portion is being left. In terms of the driveway, he suggested, "as per the plans submitted."

Erosion & Sedimentation Control Plan (2019-071)  
**MOTION:** Mr. Kennedy moved to approve the erosion and sedimentation control plan, including requested waivers to the following, as shown on the plan:
- Article II, Section 16.05.01, pursuant to the authority contained in that regulation;
- Article II, Section 16.06.01, pursuant to the waiver authority granted in Article II, Section 16.06.02; and
- Article II Section 16.12 (a), pursuant to the waiver authority granted in that regulation;

with the modifications as specified in staff memoranda from:

1. James Davis, Zoning Enforcement Officer, dated June 18, 2019 and

Ms. Scorso seconded the motion and all members voted in favor.

**MISAC CORPORATION – For a garage maintenance building addition and renovation at 8 Rachel Road. - Special Exception Modification (2019-074)**

Mr. Jeff Burkhart from FLB Architecture and Planning presented the application for a special exception modification to the garage of the Beechwood Apartments complex. The owner could not attend the meeting, but Mr. Burkhart read a letter from Michael Grant, the managing agent for MISAC Corporation. It stated that the existing garage and maintenance shop was adequate at the time of its construction in the 1960s, but since that time the need for storage has grown and the property has added more equipment. Some equipment is currently stored outside due to insufficient room in the garage, Mr. Grant’s letter stated.

Mr. Burkhart indicated the location of the existing garage on the map and said it is approximately 20 ft. x 32 ft. The applicant proposes a 20 ft. x 32 ft. addition along the back, continuing the existing slope on the back side of the building.

Mr. Burkhart noted that the Engineering Division had requested a list of the buildings as well as the unit numbers, and that information has been obtained.

There is an existing basketball court to the left of the garage, Mr. Burkhart said, as well as a treed area with a playground and an open area where children kick soccer balls, etc. Additional fencing is proposed to prevent anything from rolling into the area of the garage addition where vehicles could be backing out. A 10 ft. wide chain link gate is also proposed to allow arborists, EMTs, or others to access that playground area if needed, Mr. Burkhart said. The owner has also requested a 6 ft. chain link fence on the side of the basketball court, to protect the garage siding from damage from basketballs bouncing off it.

Mr. Burkhart said that the requests from Engineering have been implemented on the plans. He discussed the elevations of the building and some of the vehicles stored in the garage.

The approach for the new addition will be through an existing curb cut by a fenced in area off the parking area, where staff currently parks. Mr. Burkhart discussed the proposed locations of parking after the addition is complete.

Mr. Burkhart showed the existing building and proposed elevation. He said the same roofing material will be used and there will be new siding and new doors to help better insulate the building.
Mr. Anderson said there were no outstanding comments from staff on the application.

**Special Exception Modification (2019-074)**

**MOTION:** Mr. Kennedy moved to approve the special exception modification for a garage maintenance building addition and renovation at 8 Rachel Road. Mr. Stebe seconded the motion and all members voted in favor.

**WORKOUT HARDER FITNESS – To add esthetician services at 134 Pine Street, a.k.a. 136 ½ Pine Street. - Special Exception Modification (2019-075)**

Deborah Litwinko of Workout Harder Fitness said the business opened in November 2017 and she now wishes to add esthetician services and get the second floor approved. She said they have two spaces and indicated the space available before the second floor is opened. She acknowledged that she would need approval from the Health Department, which is currently in the process of developing waxing procedures and regulations. Ms. Litwinko indicated the space on the second floor and another space that would be used for small group training. There will be no changes to the outside of the building and the parking would remain the same, because services would only be offered during times that the gym is not having classes. There would probably only be one car every 30 minutes. There would be no changes to the inside of the building either, Ms. Litwinko said.

Ms. Scorso asked if the room is already available and Ms. Litwinko confirmed that everything is in place already.

Mr. Anderson noted that this application pertains only to the proposed use. If there were additional exterior changes, depending on what they were, the applicant might need to come back because the property is in the Historic zone, he said. He also noted that the Health Department has a Cosmetology Policy. Ms. Litwinko said that policy was what she had referred to, and she will be the first applicant going through that process.

**Special Exception Modification (2019-075)**

**MOTION:** Mr. Kennedy moved to approve the special exception modification to add esthetician services at 134 Pine Street (a.k.a. 136 ½ Pine Street). Ms. Scorso seconded the motion and all members voted in favor.

**ADMINISTRATIVE REPORTS:**

Mr. Anderson reported that the Town has signed a Memorandum of Understanding (MOU) with a developer for the Parkade site. He discussed their conceptual proposal and the expected permitting process moving forward. The conceptual proposal is for a mixed-use development including office uses on Broad Street, a mix of residential and commercial service type businesses in the central area, some entertainment uses, and structured parking. The concept is for a dense development, with between 500,000 and 1 million sq. ft. He reiterated that it is very early in this process and the proposal is conceptual at this point, but the Town has signed an agreement with the developer to work towards a development agreement over the next three or four months. They are including Bigelow Brook greenway in the conceptual plan. The developer is interested in the Nichols property as well; that would be a subsequent purchase. In terms of financing, the establishment of this area as an Opportunity Zone is a financial benefit to the developer, Mr. Anderson said. There are capital gains benefits for investors that invest in these parts of communities. The developer is Manchester Parkade 1 and one of its members is
Michael Licamele, who recently purchased the Connecticut Farmers Co-op on Apel Place and Oakland Street. There have been preliminary discussions about permitting; as it is a large project, the developer will probably submit a master plan laying out where buildings, roads, and utilities would be, and then subsequently come in as a phased project with each building, Mr. Anderson explained. Because they will not know everything about the development when the master plan is approved, it will probably be changed when they submit proposals for individual buildings. It will be a fluid development and they will probably get financing a piece at a time. Another interesting piece of the proposal is a microgrid; they are proposing to generate their own energy on the site (natural gas and solar), which allows them to provide some additional financial benefit for businesses and others that would locate there. They are contemplating attaching those services to their neighbors, where feasible, Mr. Anderson said.

In response to a question from Mr. Stoppelman, Mr. Anderson said Pearl Fund is an opportunity fund that invests in business incubators and things of that nature. The developer has plans for the office uses to be forward thinking in terms of the uses and the idea of the shared economy of shared spaces, incubator spaces, and ways to grow a small business quickly. They also have other incentives in mind.

Ms. Potocki asked how much funding the developer has secured already. Mr. Anderson said they say they have the majority of the funding in place, but specifics will be outlined in the development agreement to show that they have access to the funding.

In response to a question from Mr. Stoppelman, Mr. Anderson said that the easement agreements have been worked out, but an outstanding issue is that the Town has not closed on the portion of 296 Broad Street that includes Green Manor Boulevard, because they need a partial release of the mortgage on that piece of property.

Ms. Potocki asked where the developer’s office is. Mr. Anderson replied that the primary developer is out of southern Connecticut, and Harry Freeman, who is a partner, was a developer in Hartford and Windsor.

**RECEIPT OF NEW APPLICATIONS**

V. Sean Lilly Inland Properties, LLC – Inland Wetlands Permit (2019-087) – To build a new 2,500 sq. ft. single family dwelling at 19 Chilstone Lane.

Mr. Anderson said there is a new application for an inland wetlands permit to build a new 2,500 sq. ft. single family dwelling on Chilstone Lane. This was for one unit in a previously approved subdivision and, if that unit is constructed, some impacts are anticipated, Mr. Anderson said.

Regarding the tentative future agenda, Mr. Anderson said that staff and the applicant hope the application for Kenneth Boynton will be heard in August, but there are still some utility issues to be worked out. Applications for Manchester Early Learning Center and the Plaza at Burr Corners are also tentatively scheduled for August.

Regarding the pump house discussed for Kenneth Boynton’s application, Ms. Potocki asked if the applicant needs approval from the water authority. Mr. Anderson said they do; the Water and Sewer Department reviews applications and they are still working through some of those issues and those will be brought up at the public hearing.
Mr. Stebe suggested some topics for discussion at a future meeting, including parking pavement options, a zero light process, and replacement of important trees. Regarding parking, Mr. Laiuppa said that appropriate and inappropriate uses of pervious pavers were discussed at a recent Conservation Commission meeting. Discussion of trees and pervious pavers may be topics that would be logical for the Conservation Commission to discuss, he said.

Regarding the Parkade proposal, Mr. Anderson said that the Commission may be asked to amend some regulations to accommodate the goals of the Broad Street Redevelopment Plan. One possible change would be the idea that the streets need to be public streets, he said, and another would be a change to a note in one of the use sections about the number of units that can be in a multifamily building.

Regarding the special exception that was approved for Vanlose Enterprises, Ms. Potocki asked how the dealership will be prevented from parking inventory on the employee parking lot, which she said they are doing now. Mr. Anderson said, if there is a complaint about an issue, the Zoning Enforcement Officer will look into the issue. Ms. Potocki said she emailed the Zoning Enforcement Officer and never got a response. Mr. Anderson said he spoke with the Zoning Enforcement Officer today and he said that no cars were parked there.

The Chairman closed the business meeting at 9:50 p.m.

I certify these minutes were adopted on the following date:

________________________________________  __________________________
Date                                              Eric Prause, Chairman

NOTICE:  A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN
BE HEARD IN THE PLANNING DEPARTMENT.
LACK OF EXPERT OPINION ON TRAFFIC AMOUNTS TO SPECULATION

A nonprofit corporation specializing in the education and care of students with developmental disorders applied for a special exception so that it could utilize a former private school for its educational business. The applicant had purchased the school which was located in a residential zone. The property had two buildings located on it. One was already being used by the applicant who planned to expand into the other, vacant building.

The applicant presented its application to the Commission at a public hearing. This presentation included expert testimony on the issue of traffic. Residents of the surrounding area largely testified against the application due to concerns over traffic congestion and safety that the proposed use would cause. The Commission ultimately denied the application based in part on the neighbors’ testimony on traffic concerns. While the trial court found that this testimony provided substantial evidence that supported the Commission’s denial, the State Appeals Court disagreed.

In finding there was insufficient evidence in the record to support the Commission’s decision, the court stated that the Commission could not disregard the only expert evidence available on a technical issue, such as traffic safety and that testimony from persons who do not have any expertise on the issue amounts only to speculation. Speculation does not provide the substantial evidence needed to support a decision. American Institute for Neuro-Integrative Development Inc. v. Planning & Zoning Commission, AC 40102 (4/23/19).

REMOTE RUNNING OF BUSINESS CAN BE A HOME OCCUPATION

The owner of a small school bus company operated the office portion of her business from her home. The storage and maintenance of the bus fleet took place elsewhere. When she was issued with a cease and desist order to stop using her home for a business use, she applied for a home occupation permit. This was denied by the zoning enforcement officer leading her to appeal the decision to the zoning board of appeals. The board affirmed the denial stating that her use did not qualify as a home occupation under the regulations because her business was not operated solely from her home and that she failed to submit any evidence that her business operation, which was to manage her school bus business remotely from her home, was one that was customary in the town.

The appeal to the trial court resulted in a dismissal. The homeowner then sought relief from the State Appellate Court, which agreed with her that her business use could qualify as a home occupation, reversing the decision of the trial court and the board. In making its decision, the Appellate Court recognized the effect that technology has

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had on work. Personal computers and the internet have allowed people to transform how business is conducted. Working from home by telecommuting is common place and allows for business and work relationships that could not have existed 20 years ago. In this case, instead of focusing solely on the nature of the applicant’s business as a whole, the board should have placed its inquiry on the effect the actual business activities taking place at home were having on the neighborhood. This is especially true where the home portion of the business complied with the specific requirements in the zoning regulations. Watson v. Zoning Board of Appeals, AC 41209 (2019).

FAILURE TO STATE REASONS FOR DECISION RESULTS IN REMAND

Normally, when a municipal zoning agency fails to state the reasons for its decision as required by Connecticut General Statute Sec. 8-8, and often by its own regulations, the remedy for this omission is that the reviewing court will search the administrative record. However, in an appeal where a zoning board of appeals had approved several variances without stating its reasons for doing so, the court remanded the matter back to the board with an order to state the reasoning behind each of the granted variances.

Such a remand order goes against well-established precedent. However, it is in line with the judicial doctrine of judicial economy, which places great attention on the need to protect a court from unnecessary delay and expenditure of effort. Thus, the failure to state its reasons for a decision can expose a land use board to a remand order to search its record and state any reasons that support its decision. Gulick v. Zoning Board of Appeals, 67 Conn. L. Rptr. 689 (2019).

SPECIAL EXCEPTIONS RUN WITH THE LAND EVEN WHEN TIED TO A SITE PLAN

An owner of commercial property applied for and received special exception approval to develop a retail shopping center. A companion site plan was also approved. With the passing of time and the retail center not built, the owner sought confirmation that its approvals had not expired. One condition of approval was that the special exception permit would expire within 2 years of approval unless the project was completed. This 2 year time limit was later changed by amendment to the zoning regulations to coincide with the 5 year time period provided in CGS sec. 8-3(i) for completing a site plan.

In its response to the applicant, the Commission stated it would apply the 5 year time limit to the entire development - site plan and special exception approvals, as the two approvals were interrelated and concerned the same proposed use. With this 5 year period soon ending, the property owner applied for and received an extension of 5 years. An appeal of this decision by a neighbor was taken to

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the Superior Court. The court sustained the appeal, finding that the Commission was wrong to grant an extension of time to the special exception.

The reason behind the decision was that because special exceptions run with the land, they do not terminate due to the passage of time. Thus, the Commission was without authority to impose the initial time limit as well as any extension of it. However, its decision to extend the duration of the site plan another 5 years was within its authority. *International Investors v. Town Plan & Zoning Commission*, 68 Conn. L. Rptr. 48. (2019)

**RIGHT TO A PUBLIC HEARING**

When an application for a sedimentation and erosion control plan was denied, the applicant appealed the decision to court claiming it was denied a fundamentally fair hearing. The basis for this claim was that the Commission did not hold a public hearing, instead receiving all documentary evidence and testimony from the applicant and town staff during regular meetings. The applicant complained in particular that it was not given a chance to respond to a town staff report.

A zoning commission’s authority to decide sedimentation control plans arises under Connecticut General Statutes Sec. 8-2 and 22a-329. This statutory authority does not require that the commission hold a public hearing on a sedimentation and erosion control plan. Thus, the commission’s decision to not hold a public hearing did not deprive the applicant of fundamental fairness. In addition, the record showed that the applicant’s lack of response to the town staff reports was not due to any order or ruling by the commission. Instead, it appeared it was solely due to the applicant’s inaction. Thus, while fundamental fairness does not require that a public hearing be held, it does suggest that a land use board provide an applicant with an opportunity to respond. *500 North Avenue LLC v. Zoning Commission*, 67 Conn. L. Rptr. 720. (2019)

**ANNOUNCEMENTS**

**Membership Dues**

Notices for this year’s annual membership dues were mailed March 1, 2019. The Federation is a nonprofit organization which operates solely on the funds provided by its members. So that we can continue to offer the services you enjoy, please pay promptly.

**Workshops**

If your land use agency recently had an influx of new members or could use a refresher course in land use law, contact us to arrange for a workshop to be held at your next meeting. At the price of $180.00 per session for each agency attending, it is an affordable way for your commission or board to keep informed. The price for these workshops includes a booklet for each agency member.
BOOK ORDER FORM

Name of Agency: ________________________________

Person Making Order: __________________________

Address: _____________________________________

_____________________________________________

Purchase Order No.: ____________________________

“PLANNING AND ZONING IN CONNECTICUT”
  at $30.00 each for members
  at $35.00 each for nonmembers
  Copies _______ $ _______

“CONNECTICUT ZONING BOARD OF APPEALS”
  at $25.00 each for members
  at $30.00 each for nonmembers
  Copies _______ $ _______

“WORKSHOP BOOKLETS” at $12.00 each for members & $16.00 each for nonmembers
  Planning & Zoning Commissions
    Copies _______ $ _______
  Zoning Board of Appeals
    Copies _______ $ _______
  Inland Wetlands & Watercourses
    Copies _______ $ _______
  Historic District Commissions
    Copies _______ $ _______

TOTAL DUE: $ _______

Please make check payable to:
Connecticut Federation of Planning & Zoning Agencies

CONNECTICUT FEDERATION OF
PLANNING & ZONING AGENCIES
2B Farmington Commons
790 Farmington Avenue
Farmington CT 06032

Manchester Planning & Zoning Commission
41 Center Street
Manchester, CT 06045